Hearing Date: June 12, 2026

ITEM 3
TEST CLAIM
PROPOSED DECISION

Government Code Section 8593.10(b), (c), and (d)

Statutes 2023, Chapter 344, Section 2 (AB 781)

Emergency Shelters: Persons with Pets

24-TC-06

County of Sacramento, Claimant

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STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

Exhibit A

For CSM Use Only	
Filing Date:	RECEIVED December 23, 2024 Commission on State Mandates
TC #:	24-TC-06

TEST CLAIM FORM AND TEST CLAIM AMENDMENT FORM (Pursuant to Government Code section 17500 et seq. and Title 2, California Code of Regulations, section 1181.1 et seq.)

Section 1

Proposed Test Claim Title:

AB781: Access to Emergency Information and Services: Emergency Shelters: Persons with Pets

Section 2

Local Government (Local Agency/School District) Name:

County of Sacramento

Name and Title of Claimant's Authorized Official pursuant to CCR, tit.2, § 1183.1(a)(1-5):

Chad Rinde, Director of Finance

Street Address, City, State, and Zip:

700 H Street, Suite 3650, Sacramento, CA 95814

Telephone Number: 9168747450

Email Address: rindec@saccounty.gov

Section 3 – Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be sent to this representative. Any change in representation must be authorized by the claimant in writing, and e-filed with the Commission on State Mandates. (CCR, tit.2, § 1183.1(b)(1-5).)

Name and Title of Claimant Representative:

Chad Rinde, Director of Finance

Organization: Sacramento County

Street Address, City, State, Zip:

700 H Street, Suite 3650, Sacramento, CA 95814

Telephone Number: 9168747450

Email Address: rindec@saccounty.gov

Section 4 – Identify all code sections (include statutes, chapters, and bill numbers; e.g., Penal Code section 2045, Statutes 2004, Chapter 54 [AB 290]), regulatory sections (include register number and effective date; e.g., California Code of Regulations, title 5, section 60100 (Register 1998, No. 44, effective 10/29/98), and other executive orders (include effective date) that impose the alleged mandate pursuant to Government Code section 17553 and check for amendments to the section or regulations adopted to implement it:

Assembly Bill No. 781 (2023-24 Regular Session) ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS, effective January 1, 2024

Government Code Section 8593.10 Subds. (b), (c) and (d). effective January 1, 2024

Statues of 2023, Chapter 344, Section 2: Accessibility to Emergency Information and Services: Emergency Shelters: Persons with Pets, effective January 1, 2024

☑ Test Claim is Timely Filed on [Insert Filing Date] [select either A or B]: 12 / 23 / 2024

☑ A: Which is not later than 12 months (365 days) following [insert effective date] 01 / 01 / 2024, the effective date of the statute(s) or executive order(s) pled; or

☑ B: Which is within 12 months (365 days) of [insert the date costs were *first* incurred to implement the alleged mandate] 02 / 01 / 2024, which is the date of first incurring costs as a result of the statute(s) or executive order(s) pled. *This filing includes evidence which would be admissible over an objection in a civil proceeding to support the assertion of fact regarding the date that costs were first incurred*.

(Gov. Code § 17551(c); Cal. Code Regs., tit. 2, §§ 1183.1(c) and 1187.5.)

Section 5 – Written Narrative*:*

☑ Includes a statement that actual or estimated costs exceed one thousand dollars ($1,000). (Gov. Code § 17564.)

☑ Includes all of the following elements for each statute or executive order alleged **pursuant to Government Code section 17553(b)(1)**:

☑ Identifies all sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate, including a detailed description of the *new* activities and costs that arise from the alleged mandate and the existing activities and costs that are *modified* by the alleged mandate;

☑ Identifies *actual* increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;

☑ Identifies *actual or estimated* annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

☑ Contains a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

Following FY: 2024 - 2025 Total Costs: $2,680,417

☑ Identifies all dedicated funding sources for this program;

State: None

Federal: None

Local agency's general purpose funds: No dedicated funding source. (General funds to cover costs)

Other nonlocal agency funds: None

Fee authority to offset costs: None

☑ Identifies prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate: None

☑ Identifies any legislatively determined mandates that are on, or that may be related to, the same statute or executive order: None.

Section 6 – The Written Narrative Shall be Supported with Declarations Under Penalty of Perjury Pursuant to Government Code Section 17553(b)(2) and California Code of Regulations, title 2, section 1187.5, as follows:

☑ Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

☑ Declarations identifying all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

☑ Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program).

☐ If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Government Code section 17573, and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of Government Code section 17574.

☑ The declarations are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

Section 7 – The Written Narrative Shall be Supported with Copies of the Following Documentation Pursuant to Government Code section 17553(b)(3) and California Code of Regulations, title 2, § 1187.5:

☑ The test claim statute that includes the bill number, and/or executive order identified by its effective date and register number (if a regulation), alleged to impose or impact a mandate. Pages 1 to 13.

☑ Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate. Pages 24 to 358.

☑ Administrative decisions and court decisions cited in the narrative. (Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.) Pages 359 to 468.

☑ Evidence to support any written representation of fact. *Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.* (*Cal. Code Regs., tit. 2, § 1187.5*.) Pages 15 to 22.

Section 8 – TEST CLAIM CERTIFICATION Pursuant to Government Code section 17553

☑ The test claim form is signed and dated at the end of the document, under penalty of perjury by the eligible claimant, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief.

Read, sign, and date this section. Test claims that are not signed by authorized claimant officials pursuant to California Code of Regulations, title 2, section 1183.1(a)(1-5) will be returned as incomplete. In addition, please note that this form also serves to designate a claimant representative for the matter (if desired) and for that reason may only be signed by an authorized local government official as defined in section 1183.1(a)(1-5) of the Commission's regulations, and not by the representative.

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim is true and complete to the best of my own personal knowledge, information, or belief. All representations of fact are supported by documentary or testimonial evidence and are submitted in accordance with the Commission's regulations.
(Cal. Code Regs., tit.2, §§ 1183.1 and 1187.5.)

	Director of Finance
Name of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)	**Print or Type Title**

Chad Rinde
Chad Rinde (Apr 21, 2025 15:44 PDT)

Signature of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)

Test Claim Form

Final Audit Report 2025-04-21

Created:	2025-04-11
By:	CSM Sign (csmsign@csm.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA15fRprP6kb4EUqgv652JinNByJssQLL-

"Test Claim Form" History

Document created by CSM Sign (csmsign@csm.ca.gov)
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Document emailed to rindec@saccounty.gov for filling
2025-04-11 - 11:50:21 PM GMT

Email viewed by rindec@saccounty.gov
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New document URL requested by rindec@saccounty.gov
2025-04-21 - 8:58:41 PM GMT

Signer rindec@saccounty.gov entered name at signing as Chad Rinde
2025-04-21 - 10:43:19 PM GMT

Form filled by Chad Rinde (rindec@saccounty.gov)
Form filling Date: 2025-04-21 - 10:43:21 PM GMT - Time Source: server

Document emailed to rindec@saccounty.gov for signature
2025-04-21 - 10:43:23 PM GMT

Email viewed by rindec@saccounty.gov
2025-04-21 - 10:43:48 PM GMT

Signer rindec@saccounty.gov entered name at signing as Chad Rinde
2025-04-21 - 10:44:28 PM GMT

Document e-signed by Chad Rinde (rindec@saccounty.gov)
Signature Date: 2025-04-21 - 10:44:30 PM GMT - Time Source: server

Agreement completed.
2025-04-21 - 10:44:30 PM GMT

COUNTY OF SACRAMENTO TEST CLAIM
(REFILED CLAIM ON APR 21, 2025, ORIGINALLY FILED DEC 23, 2024)

ASSEMBLY BILL 781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS

Statutes of 2023, Chapter 344, Section 2: Accessibility to Emergency Information and Services: Emergency Shelters: Persons with Pets.
Assembly Bill No. 781 (2023-24 Regular Session)
Adding Section 8593.10 of the Government Code

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COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL 781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS

Statutes of 2023, Chapter 344: Accessibility to emergency information and services: emergency shelters: persons with pets.
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County of Fresno v. State of California (1991) 53 Cal. 3d 482, 487 427

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SECTION 5: WRITTEN NARRATIVE

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL 781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS

Statutes of 2023, Chapter 344, Section 2: Accessibility to Emergency Information and Services: Emergency Shelters: Persons with Pets.
Assembly Bill No. 781 (2023-24 Regular Session)
Adding Section 8593.10 of the Government Code

SECTION 5: WRITTEN NARRATIVE

COUNTY OF SACRAMENTO TEST CLAIM
ASSEMBLY BILL 781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS
Statutes of 2023, Chapter 344, Section 2: Accessibility to Emergency Information and Services: Emergency Shelters: Persons with Pets.
Assembly Bill No. 781 (2023-24 Regular Session)
Adding Section 8593.10 of the Government Code

I. STATEMENT OF THE TEST CLAIM

The County of Sacramento (County or Claimant) submits this Test Claim seeking reimbursement of the costs of implementing the requirements imposed on it by certain sections of California Assembly Bill (AB) 781 (2023-24 Reg. Sess.), which added § 8593.10 to the Government Code (GC).[1] Specifically, this Test Claim addresses the costs to implement the requirements of AB 781 § 2 subds. (b), (c), and (d), and as contained in GC § 8953.10 subds. (b), (c), and (d).

AB 781 was approved October 7, 2023, and became effective on January 1, 2024. AB 781 requires emergency plans for cities and counties to designate shelters able to accommodate pets in their next emergency plan update.[2] AB 781 requires that whenever a city of county designates any number of emergency shelters, emergency cooling shelters, and emergency warming shelters, it shall designate at least one shelter that can accommodate persons with pets.[3]

Additionally, AB 781 requires that the designated shelters be compliant with safety procedures for the sheltering of pets established or referenced in the component of the state and local emergency plan and applicable policies and procedures of the Federal Emergency Management Agency.[4] AB 781 further requires a city or county make information available to the public whenever information is provided on the availability of a cooling or warming center and whether that center accommodates pets. Finally, AB 781 requires information for pet emergency preparedness, including information for creating an evacuation plan and emergency checklist consistent with recommendations from the Department of Food and Agriculture and the Federal Emergency Management Agency, information on local organizations that may provide emergency pet assistance, and information on local emergency shelters, cooling centers and warming centers, when active, that accommodate persons with pets.[5]

AB2232 was approved by the Governor on June 14, 2024 and resulted in one minor amendment to GC 8593.10 subsection (b)(1)(E) where in it amended the team “heating”

[1] AB 781 (2023-24 Reg. Sess.); Stats. 2023, Ch. 344; GC §§ 8953.10.

[2] AB 781, § 2 subds. (b)(1)(A) and (B); GC § 8953.10 subds. (b)(1)(A) and (B).

[3] AB 781, § 2 subds. (b)(1)(C), (D) and (E); GC § 8953.10 subds. (b)(1)(C), (D), (E)

[4] AB 781, § 2 subds. (b)(2)(A) and (B); GC § 8953.10 subds. (b)(2)(A) and (B)

[5] AB 781, § 2 subds. (c) and (d); GC § 8953.10 subds. (c) and (d)

to “warming”. It did not change the underlying mandate created by AB781 as this change was just for conformance throughout the bill and to match terminology used by the Federal Emergency Management Agency.

A. DESCRIPTION OF THE NEW ACTIVITIES

GC § 8953.10 subds. (b), (c), and (d), which was added by AB 781, created new required activities for the County’s Office of Emergency Services (OES). GC § 8953.10 became effective January 1, 2024. It applies to all cities and counties within the State of California responsible for emergency services in their local jurisdiction. As such, this legislation impacts the 58 counties and 482 incorporated cities and towns[6] that perform local emergency response services.

GC § 8593.10 (a) applies definitions that are important for understanding the mandate. It establishes in subsection (a)(1) that a “cooling center” means a facility established to mitigate the public impacts of extreme heat, in subparagraph (a)(2) that an “emergency shelter” means a temporary or provisional space that provides basic shelter for people affected by a disaster, and in subparagraph (a)(4) that a Warming Center means a facility established to mitigate the public health impacts of extreme cold. Most importantly in GC 8593.10(a)(3) it defines a pet as a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.

The components of the mandate are described below as follows:

GC § 8953.10(b)(1)(A) and (B) requires the following upon the next update of a city or county’s emergency plan:

> *(A) A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.*
>
> *(B) A city that has previously adopted an emergency plan designating emergency shelters shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.*

An update to emergency plans is required in order to implement the mandate. County’s To implement the mandate OES updated its Animal Services Annex to the emergency plan in order to ensure it identified shelter locations in its emergency plan that are able to accommodate pets. Disaster events that are emergencies can also include public health impacts of extreme heat and other emergency situations exacerbated by climate change, such as wildfire, poor air quality, power outages, or flooding, on local populations. Given the large jurisdiction and geography of the County, spanning 995 square miles, multiple locations were identified to accommodate pets in order to be able to respond to varied disaster incidents and cooling or warming center needs that may arise in the future.[7] The County would not have undertaken the emergency plan update but for the mandate of AB

[6] Number of Counties and Cities use the California Department of Finance January 1, 2024, data available at https://dof.ca.gov/forecasting/demographics/estimates-e1/

[7] Declaration of Mary Jo Flynn

781 as the plan update was necessitated solely due to the additional requirements created by the mandate.

GC § 8953.10(b)(1)(C), (D), and (E) requires the following:

> *(C) Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.*
>
> *(D) Whenever a city or county designates any number of emergency cooling centers, it shall, to the extent practicable, designate at least one cooling center that can accommodate persons with pets.*
>
> *(E) Whenever a city or county designates any number of emergency warming centers, it shall, to the extent practicable, designate at least one heating center that can accommodate persons with pets.*

GC § 8953.10(b)(1)(C) mandates the designation of at least one emergency shelter that will accept people with pets during an emergency, cooling, or warming event that requires the activation of shelters.

As part of the implementation of the mandate, the County prepared by updating its emergency plan which was intended to define the full scope of equipment and supply needs to accommodate pets and ensure that it can accommodate the mandate in GC § 8953.10(b)(1)(C). The County also had a cooling center activation from June 4-6, 2024. This included daytime costs during that shelter activation; however, it did not include the full scope of services that are mentioned below as it was not an overnight shelter activation for an emergency shelter.[8] But had AB781 not been effective, the County would not have been required to open an emergency, warming or cooling shelter with the capacity to accept persons with pets.

GC § 8953.10(b)(2) requires the following:

> *(2) An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:*
> *(A) Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.*
> *(B) Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.*

Each shelter that is activated and is designated to accommodate pets will be required to follow safety procedures in the emergency plans as well as policies and procedures of the Federal Emergency Management Agency. This requires the sheltering location to have the staff, equipment, and resources needed to implement the higher level of service required by the mandate. Prior to AB 781, these services were not required, however to implement AB781, the County must take on the following activities:

[8] Declarations of Mary Jo Flynn and Jason D'Alessio

Activity	GC Reference	PAPPG Reference
Emergency Plan Updates:		
Update of city/county emergency plans to designate shelters able to accommodate persons with pets	8953.10 (b)(1)(B)	N/A
Evacuation		
Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide onetime transportation to evacuate survivors and their **household pets and service and assistance animals to evacuation facilities or emergency shelters** from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors;	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 4
Tracking of evacuees, **household pets,** service animals, luggage, and durable medical equipment. This includes the use of **animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals**;	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 6
Sheltering Eligible congregate shelter costs include:		
Minor facility modifications if necessary to make the facility: Functional as a household pet shelter	8953.10 (b)(2)(B)	Pg. 142, O. 2. a. Bullet 3
Veterinary and animal care staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. b. Bullet 3
Food, water, and bowls for household pets and service and assistance animals;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 3
Medication for animal decontamination and parasite control;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 6
Crates, cages, leashes, and animal transport carriers;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 10
Animal cleaning tables and supplies;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 12
Shelter management	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 1
Supervision of paid and volunteer staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 2
Cleaning the shelter, linens, and animal crates;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 3
Shelter safety and security;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 4
Emergency medical, crisis intervention/psychological first aid, and **veterinary services for** sheltered survivors, **household pets, and service and assistance animals**	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 8
County shall post information on its website information for pet emergency preparedness:		
Information for creating evacuation plans, emergency checklist for pets, local organizations providing pet assistance, and local shelters when active that can accommodate persons with pets.	8953.10(d)(1-3)	N/A

These activities above are those that are specifically mentioned by the Federal Emergency Management Agency (FEMA) in the Public Assistance and Policy Guide (PAPPG) which pertain to the needs associated with sheltering pets. This is required because of Government Code 8953.10(b)(2)(B) that requires following the applicable disaster assistance policies of FEMA. As a result, each of these activities is required to be performed when needed to further the sheltering of persons with pets. It defines a listing of mandated activities with references specifically to both the Government Code section created by AB781 as well as the specific sections of the PAPPG which summarizes the FEMA Guidelines which are required to be addressed by AB781.

While these needs may vary between specific events and the volume of animals cared for, there are increased costs related to the implementation of this mandate to ensure that pets can be safety housed along with their person and to ensure basic needs are met while they are sheltered. [9]

Finally, GC § 8953.10(c) and (d) require the following:

> *(c) Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets.*
> *(d) A city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:*
> *(1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.*
> *(2) Local organizations that may provide emergency pet assistance.*
> *(3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets*

Prior to the mandate, this additional public communication was not required. The mandate now requires communicating availability of shelters that accommodate pets, when active. This requires the County to gather necessary information on the locations of shelters and to draft messages for public release. It also requires the public website be modified in order to ensure that an emergency checklist for pets is available as well as a resource list of local organizations is maintained.

These are being posted on the County's OES website; however, these resources will need to be actively maintained and periodically updated for when local resource organizations change or when activations occur to ensure people are directed to the appropriate resources. This will involve specific staff time from County staff either in the office of Emergency Services or in the Public Information Office to ensure that communication is provided on the website consistent with AB781 specifically code sections 8953.1(d)(1), (2), and (3) as mentioned above.

B. DESCRIPTION OF THE EXISTING ACTIVITIES AND COSTS MODIFIED BY THE MANDATE

Claimant was not required to undertake the mandated activities prior to the mandate.

Claimant was not required to designate in its emergency plans emergency, cooling and warming shelters that can accommodate persons with pets[10]. Claimant was also not required to open, equip, staff, and maintain these shelters to accommodate persons with

[9] Declaration of Mary Jo Flynn and Jason D'Alessio.

[10] Declaration of MaryJo Flynn.

pets, communicate those locations publicly, or to maintain a listing of emergency resources for pets prior to the mandate.[11]

Further, Claimant was not required to post information on its website for pet emergency preparedness, including an emergency checklist, local support organizations for emergency pet assistance, and locations of emergency, cooling and warming centers that, when active, accommodate pets.[12]

C. ACTUAL INCREASED COSTS INCURRED BY THE CLAIMANT DURING THE FISCAL YEAR FOR WHICH THE TEST CLAIM WAS FILED TO IMPLEMENT THE ALLEGED MANDATE

OES first incurred costs related to implementing the mandate in AB 781 on February 1, 2024.

In Fiscal Year (FY) 2023-24, OES has incurred $3,199.57 for the plan update. The County of Sacramento under Government Code section 8593.10(b)(1)(a) was required upon the next update of its county emergency plan to incorporate information to designate emergency shelters that were able to accommodate persons with pets. The update of the emergency plan started in February 2024. The costs were for internal staff time to review the plan and to make updates to the plan to be compliant with the requirements of AB 781. The only activity performed included staff time including corresponding staff salary and benefit costs for the hours used to perform the update. The updated plan entitled the Animal Sheltering Annex portion of the County's emergency services plan was taken to the Board of Supervisors for approval on May 21, 2024.[13]

Further, in fiscal year 2023-24, the County of Sacramento opened cooling shelters which were activated for a 3-day period from June 4-6, 2024. In accordance with government code 8953.10(b)(1)(D), when the County opened cooling shelters, it was required to designate a cooling shelter to accommodate pets. The county designated its shelter to open for this event as a shelter which could accommodate pets. As part of the need to address weather conditions at the time, the County followed government code 8953.10(b)(2) which required the County to follow applicable disaster assistance policies of the Federal Emergency Management Agency. As part of following those policies, the County paid for required staffing to operate the shelter at a level that could accommodate animals and applicable supplies including water at the site. The costs for this three day event resulted in $1,060.43 in staff and supply costs to operate the cooling shelter that could accommodate persons with pets as was required to implement AB 781.[14]

These costs cumulatively total $4,260.00 for FY 2023-24 which is the total of both the $3,199.57 in costs for government code 8593.10(b)(1)(a) for the emergency plan update

[11] Declaration of Mary Jo Flynn.

[12] Declaration of Mary Jo Flynn.

[13] Declaration of Jason D'Alessio.

[14] Declaration of Jason D'Alessio.

and the $1,060.43 in costs for government code 8953.10(b)(1)(D) to operate a cooling shelter that could accept pets.

D. ACTUAL OR ESTIMATED ANNUAL COSTS THAT WILL BE INCURRED BY THE CLAIMANT TO IMPLEMENT THE ALLEGED MANDATE DURING THE FISCAL YEAR IMMEDIATELY FOLLOWING THE FISCAL YEAR FOR WHICH THE TEST CLAIM WAS FILED.

Claimant expects to incur additional increased costs to continue implementing the mandated activities. OES estimates incurring $58,186 in costs related to implementing AB 781 for FY 2024-25.[15]

As the Emergency Plan update was completed in fiscal year 2023-24, there is not an expectation that additional costs will be incurred again in fiscal year 2024-25 in order to update the plan. Rather the costs are expected to relate specifically to operate shelters consistent with Government Code 8953.10(B) which requires the operation of shelters that can accommodate pets for three situations which are for emergency shelters (Government Code 8953.10(b)(1)(C)), cooling centers (Government Code 8953.10(b)(1)(D)), and warming centers (Government Code 8953.10(b)(1)(E)). Each of these has a threshold of when those type of shelter would be activated when weather or emergency conditions dictate that a shelter would need to be opened. In estimating the costs, the County of Sacramento in the table below estimated the cost for a full 7 day activation of shelters that can accommodate persons with pets. Incorporating the required activities that the County would need to offer based on Government Code 8953.10(b)(2)(B) which requires the activities to be consistent with the Federal Emergency Management guidelines. In addition, there are estimated costs in association with Government Code 8953.10(d)(1), (2), and (3) related to information requirements that must be on the County website pertaining to resources for persons with pets related to emergency, cooling and warming shelters. The table below further summarizes by government code and the FEMA Public Assistance Program and Policy Guide (PAPPG)[16].

Activity	GC Reference	PAPPG Reference	Cost Estimate (FY2024-25)
Emergency Plan Updates:			
Update of city/county emergency plans to designate shelters able to accommodate persons with pets	8953.10 (b)(1)(B)	N/A	$0
Evacuation			
Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide onetime transportation to evacuate survivors and their **household pets and service and assistance animals to evacuation facilities or emergency shelters** from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors;	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 4	$5,250
Tracking of evacuees, **household pets,** service animals, luggage, and durable medical equipment.	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 6	$4,200

[15] Declaration of Jason D'Alessio.

[16] Declaration of Jason D'Alessio.

This includes the use of **animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals**;			
Sheltering Eligible congregate shelter costs include:			
Minor facility modifications if necessary to make the facility: Functional as a household pet shelter	8953.10 (b)(2)(B)	Pg. 142, O. 2. a. Bullet 3	$0*
Veterinary and animal care staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. b. Bullet 3	$13,440
Food, water, and bowls for household pets and service and assistance animals;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 3	$200
Medication for animal decontamination and parasite control;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 6	$750
Crates, cages, leashes, and animal transport carriers;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 10	$300
Animal cleaning tables and supplies;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 12	$1,500
Shelter management	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 1	$7,560
Supervision of paid and volunteer staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 2	$10,080
Cleaning the shelter, linens, and animal crates;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 3	$500
Shelter safety and security;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 4	$12,600
Emergency medical, crisis intervention/psychological first aid, and **veterinary services for** sheltered survivors, **household pets, and service and assistance animals**	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 8	$1,491
County shall post information on its website information for pet emergency preparedness:			
Information for creating evacuation plans, emergency checklist for pets, local organizations providing pet assistance, and local shelters when active that can accommodate persons with pets.	8953.10(d)(1-3)	N/A	$315
Total Costs			$58,186

*No estimate at this time based on present facilities, however could be needed depending on location of sheltering needs if alternate facilities are used.

E. STATEWIDE COST ESTIMATE OF INCREASED COSTS THAT ALL LOCAL AGENCIES WILL INCUR TO IMPLEMENT THE MANDATE

OES estimates increased statewide costs of $2,680,417 for implementing AB 781 in FY 2024-25.[17] This is comprised of $1,728,000 for Emergency Plan update costs and $952,417 of Sheltering Costs calculated as shown below:

Emergency Plan Update Costs	
Sacramento County – Emergency Plan Update Cost	$3,200
Multiplied by: Number of Cities and Counties in the State	540
Cost Estimate – Emergency Plans	$1,728,000

Sheltering Costs	
Sacramento County – 2024/25 Sheltering Cost per Day	$8,312.28
Estimated Number of Days for Shelter Operations	7

[17] Declaration of Jason D'Alessio. Based on extrapolating Sacramento County's costs to other jurisdictions and method as described in the declaration.

Sacramento County – 2024/25 Costs for Unincorporated Population	$58,186
Divided by: Unincorporated Sacramento County Population	597,614
Cost per Person:	$0.0973638502444722
Multiplied by: State of California Population	39,128,162
Statewide Estimate:	$3,809,668
Assumption: Only 25% of Jurisdictions require sheltering in given year	X 25%
Statewide Estimate	$952,417.13
Rounded to Nearest Dollar: Cost Estimate: 2024/25 Sheltering Costs	$952,417

F. IDENTIFICATION OF ALL DEDICATED FUNDING SOURCES FOR THIS PROGRAM

Claimant is not aware of, nor did it receive, any State, federal, or other non-local agency funds available for this program, and all the increased costs were paid and will be paid from the Claimant's General Fund appropriations.[18]

G. IDENTIFICATION OF PRIOR MANDATED DETERMINATIONS MADE BY THE BOARD OF CONTROL OR COMMISSION ON STATE MANDATES

The Claimant is not aware of any prior determination made by the Board of Control or the Commission on State Mandates related to this matter.

H. IDENTIFICATION OF LEGISLATIVELY-DETERMINED MANDATES THAT ARE ON THE SAME STATUTE OR EXECUTIVE ORDER

The Claimant is not aware of any legislatively-determined mandates related to AB 781, Chapter 344, Statutes of 2023, pursuant to GC § 17573.

II. MANDATE MEETS BOTH SUPREME COURT TESTS

In *County of Los Angeles v. State of California*, (1987) 43 Cal.3d 46, the Supreme Court was called upon to interpret the phrase "new program or higher level of service", language that was approved by the voters when they passed Proposition 4 in 1979, which added Article XIII B to the California Constitution. In reaching its decision, the Court held that:

> ". . . the term 'higher level of service' . . . must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs.' But the term 'program' itself is not defined in Article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the

[18] Declaration of Mary Jo Flynn and Jason D'Alessio.

> electorate had in mind the commonly understood meanings of the term programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local government and do not apply generally to all residents and entities in the state."[19]

A program can either carry out the governmental function of providing services to the public or be a law that implements State policy that imposes unique requirements on the local government that does not apply to the entire State. Only one part of this definition has to apply in order for the mandate to qualify as a program. AB 781's mandated activities meet the prong of providing services to the public.[20]

III. MANDATE IS UNIQUE TO LOCAL GOVERNMENT

The sections of the law alleged in this Test Claim are unique to the Claimant and other cities and counties that provide Emergency Services. The activities described in section A are provided only by local government agencies.

IV. MANDATE CARRIES OUT STATE POLICY

The new State statute, the subject of this Test Claim, imposes a higher level of service by requiring local agencies to provide the mandated activities described in section A.

V. STATE MANDATE LAW

Article XIII B § 6 requires the State to provide a subvention of funds to local government agencies any time the legislature or a State agency requires the local government agency to implement a new program or provide a higher level of service under an existing program. Section 6 states in relevant part:

> Whenever the legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local governments for the cost of such program or increased level of service . . .

The purpose of § 6 "is to preclude the state from shifting financial responsibility for carrying our governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[21] The section was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.[22] In order to implement § 6, the Legislature enacted a comprehensive

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[19] *County of Los Angeles v. State of California (1987)* 43 Cal. 3d 46, 56

[20] *Carmel Valley Fire Protection District v. State of California (1987)* 190 Cal.App. 3d 521, 537

[21] *County of San Diego v. State of California (1997)* 15 Cal. 4th 68, 81; *County of Fresno v. State of California (1991)* 53 Cal. 3d 482, 487

[22] *County of Fresno v. State of California (1991)* 53 Cal. 3d 482, 487*; Redevelopment Agency v. Commission on State Mandates (1997)* 55 Cal.App.4th 976-985

administrative scheme to define and pay mandate claims.[23] Under this scheme, the Legislature established the parameters regarding what constitutes a State-mandated cost, defining "costs mandated by the state" to include:

> …any increased costs which a local agency is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of § 6 of Article XIII B of the California Constitution.[24]

VI. STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in GC § 17556, which could serve to bar recovery of "costs mandated by the State", as defined in GC § 17556. None of the seven disclaimers apply to this Test Claim:

1. The claim is submitted by a local agency or school district, which requests legislative authority for that local agency or school district to implement the Program specified in the statute, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.

3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

5. The statute or executive order provides for offsetting savings to local agencies or school districts, which result in no net costs to the local agencies or school districts or includes additional revenue that was specifically intended to fund costs of the State mandate in an amount sufficient to fund the cost of the State mandate.

6. The statute or executive order imposes duties, which were expressly included in a ballot measure approved by the voters in Statewide election.

[23] Government Code § 17500, et seq.; *Kinlaw v. State of California (1991)* 54 Cal. 3d 326, 331, 333

[24] Government Code § 17514

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.[25]

None of the disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement apply to this Test Claim.

The enactment of AB 781 imposes new State-mandated activities and costs on the Claimant, and none of the exceptions in Government Code § 17556 excuse the State from reimbursing Claimant for the costs associated with implementing the required activities. AB 781 therefore, represents a State mandate for which the Claimant is entitled to reimbursement pursuant to § 6 of the State Constitution.

VII. CONCLUSION

AB 781 Chapter 344, Statutes of 2023, imposes State-mandated activities and costs on the Claimant. Those State-mandated costs are not exempted from the subvention requirements of § 6 of the State Constitution.

There are no funding sources, and the Claimant lacks authority to develop and impose fees to fund any of these new State-mandated activities. Therefore, Claimant respectfully requests that the Commission on State Mandates find that the mandated activities set forth in the Test Claim are State mandates that require subvention under the California Constitution § 6.

[25] Government Code § 17556

SECTION 6: DECLARATIONS

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL AB781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS

DECLARATION OF MARY JO FLYNN

I, Mary Jo Flynn, declare under penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1. I am employed by the County of Sacramento (County) Office of Emergency Services (OES) and hold the title of Chief of Emergency Services. I am responsible for the County's Emergency Preparedness and Response programs and capabilities. That includes liaising between agencies responsible for emergency response and recovery activities and the State of California and Federal agencies, such as the Federal Emergency Management Agency (FEMA).

2. Assembly Bill (AB) 781, which added Government Code (GC) § 8593.10, was approved on October 7, 2023. AB 781 added to the requirements of local offices of Emergency Services by requiring that in the next update of a city or county's emergency plan, the plan designate emergency shelters that will accommodate persons with pets. [See GC § 8593.10(b)(1).] GC § 8593.10(c) further requires that, once emergency shelters are activated, at least one emergency shelter be designated that would accommodate pets.

3. GC § 8593.10(E)(2) requires that, as part of the emergency plan and activation, emergency shelters that accommodate pets follow safety procedures in the state and local emergency plan and applicable disaster policies established by FEMA.

   In order to implement this in the County, the emergency shelter must be able to segregate pets within facilities using kennels, crates or other containers. These must be purchased or available for rental and, between emergencies, may be required to be stored or transported to be available for use. In addition, emergency shelters need to provide similar services to pets that must be provided to humans that come and need sheltering. This is documented in Version 5 of the Public Assistance Program and Policy Guide (PAPPG) effective January 6, 2025,[24] which states on pages 140-152 related to Evacuation and Sheltering, "Evacuation and sheltering of survivors are eligible activities. This includes household pets and service and assistance animals, but not exhibition or livestock animals." In that same section, it discusses the needs of survivors of a disaster, including their food, water, medical care, equipment, and transposition needs. OES has incorporated these guidelines from FEMA into its shelter plans as requested by AB 781. This was done specifically in Government Code 8953.10 subsection (b)(2)(B) which requires "an emergency shelter designed to accommodate persons with pets to be in compliance with … applicable disaster assistance policies and procedures of the Federal Emergency Management Agency".

   More specifically to animals, these needs are listed in the PAPPG but include:

[24] PAPPG is available at: https://www.fema.gov/sites/default/files/documents/fema_pa_pappg-v5.0_012025.pdf

- Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide onetime transportation to evacuate survivors and their household pets and service and assistance animals to evacuation facilities or emergency shelters from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors;
- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals;
- Minor facility modifications if necessary to make the facility: Functional as a household pet shelter
- Veterinary and animal care staff;
- Food, water, and bowls for household pets and service and assistance animals;
- Medication for animal decontamination and parasite control;
- Crates, cages, leashes, and animal transport carriers;
- Animal cleaning tables and supplies;
- Shelter management;
- Supervision of paid and volunteer staff;
- Cleaning the shelter, linens, and animal crates;
- Shelter safety and security;
- Emergency medical, crisis intervention/psychological first aid, and veterinary services for sheltered survivors, household pets, and service and assistance animals.

  Given the broad geography of the County of Sacramento, which covers over 995 square miles, depending on the disaster, more than one shelter may be needed to accommodate pets based on constraints. This could be due to travel distances, closed roadways, hazardous conditions or other reasons that one, many, or all shelters may need this capability in a disaster.

4. AB 781 added the requirement pertaining to the inclusion of pets within local city and county emergency plans, whereas previously, there were guidelines, but no mandatory legal requirements, in emergency response. This obligation was specifically added in Government Code 8953.10(b)(1)(B)

5. Prior to the passage of AB 781, there was no legal obligation to shelter pets. OES would ask shelters to accommodate pets when possible; however, this was subject to the discretion of each sheltering entity and the abilities of the sheltering site at the time. There was no advertising of this capability, as it was informal and decisions were made on a case-by-case basis. However, in the emergency management field, it is considered a best practice to shelter pets when possible.

   OES would also consider guidance available and contained in the PAPPG mentioned above. The PAPPG provides requirements as it pertains to local response to Federally Declared Disasters in order to seek FEMA reimbursement. The PAPPG is not required to be followed unless the disaster is such that it meets minimum requirements to be federally eligible and reimbursement is sought. Thus,

it also does not require a specific response, such as sheltering animals, as is mandated in AB 781; however, its guidelines do articulate the typical needs of sheltering animals in a significant emergency situation.

6. On October 7, 2023, the California Legislature approved AB 781. Effective January 1, 2024, AB 781 institutes new mandates of local agencies as follows:
   a. As discussed above, GC § 8953.10(b)(1)(A) mandates the County (and cities) to update their Emergency Plans with the next plan update to designate emergency shelters to accommodate pets. This creates additional expense in the plan update process for staff or consultants to perform this identification process.
   b. Further, GC § 8953.10(b)(1)(C) requires a city or county to designate a shelter during emergencies to accommodate pets. GC § 8953.10(b)(1)(D) requires a city or county to designate a shelter during emergency cooling center events to accommodate pets, and GC § 8953.10(b)(1)(E) requires a city or county to designate a shelter during emergency warming center events to accommodate pets.
   c. GC § 8953.10(d)(1) further requires that public information to be made available on its internet website including evacuation plans and checklists for pets consistent with the Department of Food and Agriculture and FEMA, Information on local organizations providing emergency pet assistance, and locations of local emergency shelters, cooling centers, and warming centers that accommodate pets. This requires staff to obtain the appropriate content and do an initial page on the website but also to maintain the information to ensure proper locations during emergency events.

7. I am informed that OES first incurred costs related to implementing the mandate in AB 781 on February 1, 2024. This is consistent with our update of the Emergency Plans related to Animal Sheltering. The specific costs incurred and estimates of future costs are maintained by Jason D'Alessio, Emergency Operations Coordinator.

8. OES is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter. The County is not aware of any legislatively-determined mandates related to AB781.

I have personal knowledge of the foregoing facts and information presented in this Test Claim and, if so required, I could and would testify to the statements made herein.

Executed this 14 day of Feb 2025 in Sacramento, California.

Mary Jo Flynn
Chief of Emergency Services
Office of Emergency Services
County of Sacramento

DECLARATION OF JASON D'ALESSIO

I, Jason D'Alessio, declare under penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1. I am employed by the County of Sacramento (County) Office of Emergency Services (OES) and hold the title of Emergency Operations Coordinator. I am responsible for coordinating emergency preparation and response tasks in the office, including certain finance and logistics tasks. At times, this involves administering contracts, certain grants, and supporting emergency services planning activities. This also can include doing purchasing work for the office and following county procedures including obtaining quotes, contracts and sources for necessary supplies. My work is overseen and directed by Mary Jo Flynn-Nevins, Chief of Emergency Services. As part of my coordination role, I supported planning of the implementation of Assembly Bill (AB) 781.

2. AB 781, which added GC § 8953.10, requires the County to have at least one emergency shelter, cooling, or warming shelter, that can accommodate persons with pets, when that respective shelter type is activated. This includes updating the emergency plan for accomplishing that activity and ensuring the shelter location can accommodate pets and that those assigned to manage a shelter in the emergency have the education, knowledge, and supplies necessary to complete that function.

3. Prior to the passage of AB 781, which now requires at least one shelter to house persons with pets, there was not a requirement to accommodate pets, and shelters would decide on their own voluntarily if they could safely perform this function.

4. Effective January 1, 2024, AB 781 requires the accommodation of pets. As a result, we've updated our Animal Services Emergency Services Annex, which is our Emergency Plan,to be compliant with the mandate. We've also worked with the Department of Animal Care Services to determine available kennels and crates to accommodate pets. In an emergency, kennels and crates would need to be transported to a shelter location. In a shelter, at times, pets are stored with their owner; however, the best approach for overall safety is to have the pets crated or kenneled and located separately. The County has updated its emergency plan to ensure all shelter locations can accommodate pets since, in an emergency, it isn't always known which shelter location(s) may need be activated given the broad geography of the County.

5. In order to safely shelter pets, we follow guidelines from FEMA contained in their Version 5 of the Public Assistance Program and Policy Guide (PAPPG) Effective January 6, 2025[27] which states on Page 143-155 related to Evacuation and Sheltering. Prior to this new version, we followed the Version 4 of the Public Assistance and Policy Guide which was effective between June 30, 2020 and

[27] PAPPG is available at: https://www.fema.gov/sites/default/files/documents/fema_pa_pappg-v5.0_012025.pdf

January 5, 2025. Following these FEMA guidelines as it pertains to sheltering of pets is required specifically by Government Code Section 8953.10 subsection (b)(2)(B) which requires "an emergency shelter designated to accommodate persons with pets to be in compliance with … applicable disaster assistance policies and procedures of the Federal Emergency Management Agency". Those policies and procedures are specifically mentioned in the state mandate and captured in the PAPPG specifying those activities that should be undertaken to implement AB781. These discuss the needs of human survivors of disasters as well as household pets. In order to implement these guidelines for safety, we would evaluate if veterinary care at check-in is required to make sure the animal is vaccinated and chipped as required by state law. There may also be the need for medication, or if an animal is in poor condition, veterinary staff may recommend they be euthanized. In addition, there are costs of housing through kennels or crates, as well as providing a separate space for the animals to reside and be secured separately from persons staying. Also, the animals need food, water, and a space to relieve themselves. In addition, there would be costs associated with clean-up. If we don't have a shelter that can accommodate a person with pets near where they are at, the County may need to provide transportation for persons and pets to the nearest available shelter if they are unable to transport pets on their own. So there are several different types of costs that the mandate creates by requiring pets instead of it being voluntary. These costs are mentioned in the PAPPG, which establishes FEMA guidelines for sheltering Animals. The County of Sacramento had a cooling center activation from June 4-6, 2024, which included staff time and certain supplies. However, it did not utilize the full scope of services that may be required in other emergency types.

6. OES first incurred costs related to implementing the mandate in AB 781 on February 1, 2024. The initial costs incurred involved staff time spent to update the Animal Sheltering Annex portion of the Emergency Services Plan. The updated Animal Sheltering Annex was adopted by the Sacramento County Board of Supervisors on May 21, 2024.

   In Fiscal Year (FY) 2023-24, OES has incurred $4,260.00 for work related to the mandates of AB 781. This included $3,199.57 for staff work to update the emergency plan and $1,060.43 for staff time and supplies for cooling centers opened between June 4-6, 2024 that accommodated pets. The staff time related to the emergency plan included identifying shelters that could accommodate pets and to ensure that county contracts had the ability to purchase needed supplies in case of emergency activation. For the costs on the June 4-6 activation, this included staff time as well as supplies including water and food for animals at the shelters. Below is a schedule of the required activities associated with AB781 including the costs incurred in 2024-25 and estimates for 2025-26.

Activity	GC Reference	PAPPG Reference	Costs Incurred (FY 2023-24)	Cost Estimate (FY2024-25)
Emergency Plan Updates:				
Update of city/county emergency plans to designate shelters able to accommodate persons with pets	8953.10 (b)(1)(B)	N/A	$3,199.57	$0
Evacuation				
Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide onetime transportation to evacuate survivors and their **household pets and service and assistance animals to evacuation facilities or emergency shelters** from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors;	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 4	$0	$5,250
Tracking of evacuees, **household pets,** service animals, luggage, and durable medical equipment. This includes the use of **animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals**;	8953.10 (b)(2)(B)	Pg. 141, O. 1. Bullet 6	$0	$4,200
Sheltering Eligible congregate shelter costs include:				
Minor facility modifications if necessary to make the facility: Functional as a household pet shelter	8953.10 (b)(2)(B)	Pg. 142, O. 2. a. Bullet 3	$0	$0*
Veterinary and animal care staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. b. Bullet 3	$0	$13,440
Food, water, and bowls for household pets and service and assistance animals;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 3	$0	$200
Medication for animal decontamination and parasite control;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 6	$0	$750
Crates, cages, leashes, and animal transport carriers;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 10	$0	$300
Animal cleaning tables and supplies;	8953.10 (b)(2)(B)	Pg. 142, O. 2. c. Bullet 12	$0	$1,500
Shelter management	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 1	$1,060.43	$7,560
Supervision of paid and volunteer staff;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 2	$0	$10,080
Cleaning the shelter, linens, and animal crates;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 3	$0	$500
Shelter safety and security;	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 4	$0	$12,600
Emergency medical, crisis intervention/psychological first aid, and **veterinary services for** sheltered survivors, **household pets, and service and assistance animals**	8953.10 (b)(2)(B)	Pg. 142, O. 2. d. Bullet 8	$0	$1,491
County shall post information on its website information for pet emergency preparedness:				
Information for creating evacuation plans, emergency checklist for pets, local organizations providing pet assistance, and local shelters when active that can accommodate persons with pets.	8953.10(d)(1-3)	N/A	$0	$315
Total Costs			$4,260.00	$58,186

*No estimate at this time based on present facilities, however could be needed depending on location of sheltering needs if alternate facilities are used.

As shown in the table above, OES estimates that costs of $58,186 might be occurred in the coming fiscal year. This assumes that seven sheltering days are provided and that those shelter days require a full service activation of animal shelters with all of the services referenced in the PAPPG. However, the costs may vary substantially based on the number of days that shelters are open, the amount

of animals served, and the specific needs of those utilizing shelter services. The seven estimated days was determined by looking at prior years' activations for emergency, cooling, and warming centers and deriving an estimate of the number of days that are forecast. However, it should be noted that it is difficult to predict weather patterns in advance or other emergency conditions that may drive the need for these facilities. Again, costs may vary significantly depending on the number of sheltering nights, locations, and pets that are admitted to a sheltering location necessitating more supplies.

There are no fees, funding sources or reimbursements for these costs. The County could potentially pursue reimbursement of certain costs however only when the sheltering is performed as part of presidentially declared disaster. AB781 requires this sheltering to be performed whenever a cooling, warming or emergency shelter is opened which expands these services beyond just events rising to that level. Thus, the costs of implementing AB 781 to update the emergency plans, open and operate shelters and to accommodate pets, and to communicate to the public are funded by the County's general fund.

7. OES estimates the increased statewide cost of the mandate at $2,680,417, comprised of $1,728,000 for emergency plan updates and $952,417 of sheltering costs.

   To estimate the cost of emergency plan updates statewide, we applied the $3,200 related to our plan update to the 58 counties and 482 incorporated cities and towns in the State, which resulted in $3,200 x 540 = $1,728,000.

   To estimate sheltering costs, we estimate $8,312 per sheltering night for a full service activation of a shelter that needs all services possible under AB781 and the required sections of the PAPPG ($58,186 divided by 7). We estimate 7 days of sheltering for our unincorporated population of 597,614[28] as discussed further above. The County is only responsible for emergency services in the unincorporated area of the County. The Cities of Sacramento, Citrus Heights, Galt, Elk Grove, Rancho Cordova, Isleton, and Folsom would be responsible for this mandate in their incorporated areas of the County.

   When we extrapolate that to the State Population of 39,128,162 equals $952,417 of sheltering costs statewide. Demonstrated as a formula, we took 7 days x $8,312 or $58,186 needed to serve our population per year. We then took $58,186 x the state population of 39,128,162 divided by our unincorporated population of 597,614, which resulted in $3,809,668. We then multiplied this amount by 25% reflecting that not all jurisdictions within the state may require sheltering each year and that will depend on specific local conditions which resulted in $3,809,668 x 25% or $952,417. This assumes that sheltering is scalable by population and our estimated costs and that our assumption of affected jurisdictions is accurate.

[28] Population figures use the California Department of Finance January 1, 2024, data available at https://dof.ca.gov/forecasting/demographics/estimates-e1/

8. OES is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter. The County is not aware of any legislatively-determined mandates related to SB AB 781.

I have personal knowledge of the foregoing facts and information presented in this Test Claim and, if so required, I could and would testify to the statements made herein.

Executed this _12_ day of _February_ 2025 in Sacramento, California.

Jason R. D'Alessio

Jason D'Alessio
Emergency Operations Coordinator
Office of Emergency Services
County of Sacramento

SECTION 7: SUPPORTING DOCUMENTS

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL AB781: ACCESSIBILITY TO EMERGENCY INFORMATION AND SERVICES: EMERGENCY SHELTERS: PERSONS WITH PETS

STATE AND SENATE BILL

COMMITTEES AND RULES

CASELAW AND CODES

Assembly Bill No. 781

CHAPTER 344

An act to add Section 8593.10 to the Government Code, relating to emergency services.

[Approved by Governor October 7, 2023. Filed with Secretary of State October 7, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 781, Maienschein. Accessibility to emergency information and services: emergency shelters: persons with pets.

Existing law, the California Emergency Services Act, provides that political subdivisions, as defined, have full power during a local emergency to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements. Existing law defines "emergency plan" for these purposes to mean official and approved documents that describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. Existing law requires that a county send a copy of its emergency plan to the Office of Emergency Services upon an update to the plan.

Upon the next update to a city or county's emergency plan, this bill would require a county to update its emergency plan to designate emergency shelters able to accommodate persons with pets, and would require a city that has previously adopted an emergency plan designating emergency shelters to update its emergency plan to designate emergency shelters able to accommodate persons with pets. This bill would require, upon the next update to a city or county's emergency plan, whenever a city or county designates any number of emergency shelters that it also designate at least one emergency shelter that can accommodate persons with pets. This bill would also require, upon the next update to a city or county's emergency plan, whenever a city or county designates any number of cooling centers or warming centers, that it also, to the extent practicable, designate at least one cooling center or warming center, as applicable, that can accommodate persons with pets. The bill would require an emergency shelter designated as able to accommodate persons with pets to be in compliance with safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan and applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.

This bill would also require a city or county to include whether the cooling or warming center can accommodate pets whenever a city or county provides public information regarding the availability of a cooling center or warming center. This bill would require a city or county to make available to the

public by posting on its internet website information for pet emergency preparedness, including, but not limited to, among other things, information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

This bill would also make various findings and declarations in this regard. By requiring cities and counties to update their emergency plans, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Natural disasters and extreme weather events, including wildfire, flooding, earthquakes, extreme heat, and extreme cold, present severe risks to public health and safety in California.

(b) Pets are particularly vulnerable to extreme weather conditions, including increased risk of heatstroke-related illness and death.

(c) A majority of Americans consider their pets to be family members. Research has found the most significant risk factor for evacuation failure is pet ownership. Research indicates that pet owners may refuse evacuation, attempt to illegally reenter evacuation sites to rescue their animals, and face grief, depression, and PTSD because of separation from their pet during an emergency (Heath and Linnabary, Challenges of Managing Animals in Disasters in the U.S., Mar. 26, 2015, 5 Animals 173).

(d) Zoonotic disease risks increase when pets are abandoned or left to roam.

(e) Gaps in public preparedness and cosheltering opportunities during a disaster or extreme weather event increase risks to public health and safety.

(f) It is the intent of the Legislature in enacting this legislation to provide guidance in increasing public preparedness and establishing cosheltering standards so that Californians know that when a disaster or extreme weather event occurs, they will not have to choose between seeking safety and staying with their pets.

SEC. 2. Section 8593.10 is added to the Government Code, to read:

8593.10. (a) For the purposes of this section, all of the following definitions apply:

(1) “Cooling center” means a facility established to mitigate the public health impacts of extreme heat.

(2) “Emergency shelter” means a temporary or provisional safe space that provides a basic shelter for people affected by disaster.

(3) “Pet” means a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.

(4) “Warming center” means a facility established to mitigate the public health impacts of extreme cold.

(b) (1) Upon the next update of a city or county’s emergency plan:

(A) A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.

(B) A city that has previously adopted an emergency plan designating emergency shelters shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.

(C) Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.

(D) Whenever a city or county designates any number of emergency cooling centers, it shall, to the extent practicable, designate at least one cooling center that can accommodate persons with pets.

(E) Whenever a city or county designates any number of emergency warming centers, it shall, to the extent practicable, designate at least one heating center that can accommodate persons with pets.

(2) An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:

(A) Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.

(B) Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.

(c) Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets.

(d) A city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

(1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

(2) Local organizations that may provide emergency pet assistance.

(3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

State of California

GOVERNMENT CODE

Section 8593.10

8593.10. (a) For the purposes of this section, all of the following definitions apply:

(1) "Cooling center" means a facility established to mitigate the public health impacts of extreme heat.

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(3) "Pet" means a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.

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(C) Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.

(D) Whenever a city or county designates any number of emergency cooling centers, it shall, to the extent practicable, designate at least one cooling center that can accommodate persons with pets.

(E) Whenever a city or county designates any number of emergency warming centers, it shall, to the extent practicable, designate at least one heating center that can accommodate persons with pets.

(2) An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:

(A) Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.

(B) Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.

(c) Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets.

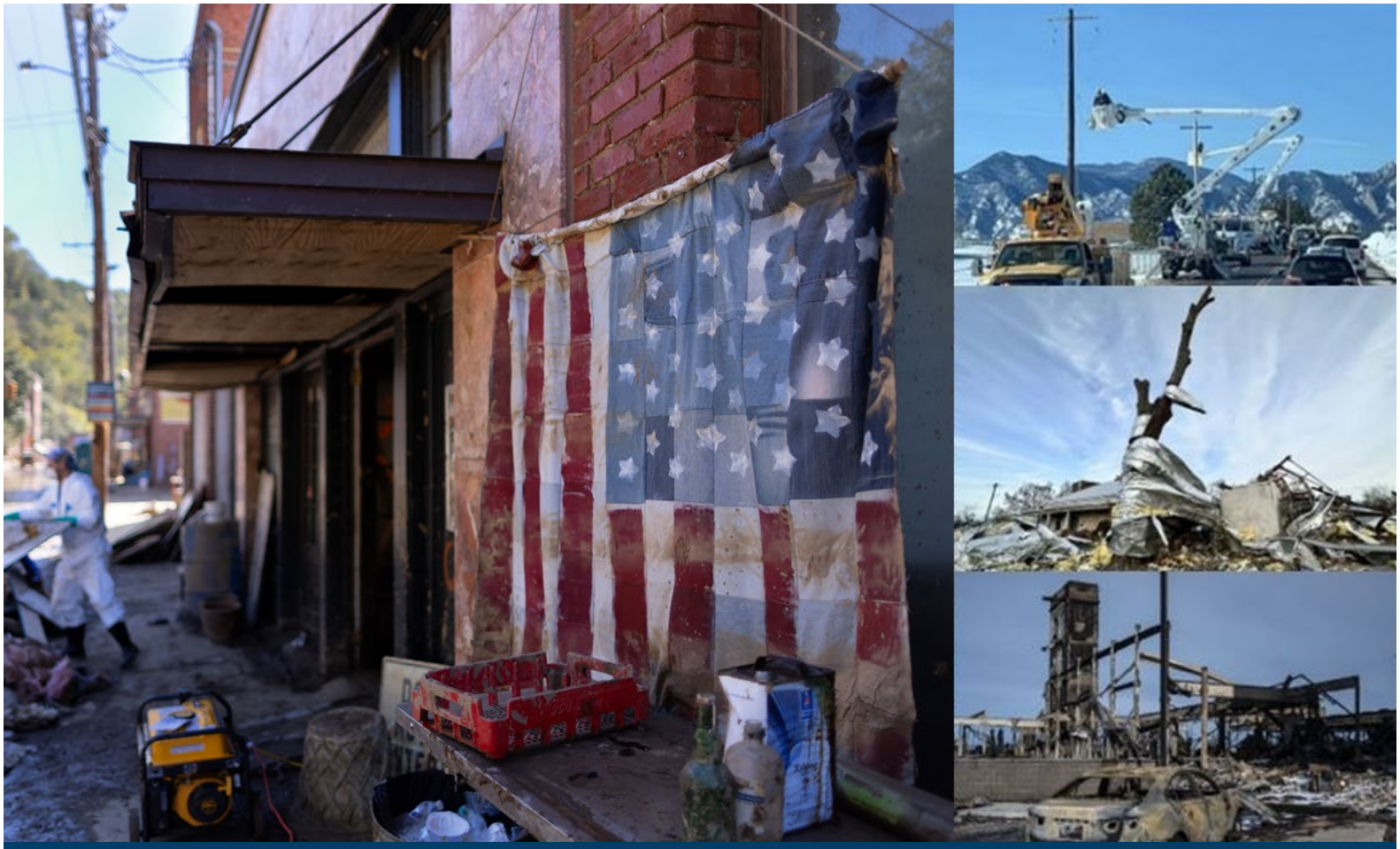
(d) A city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

(1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

(2) Local organizations that may provide emergency pet assistance.

(3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets.

(Added by Stats. 2023, Ch. 344, Sec. 2. (AB 781) Effective January 1, 2024.)



Public Assistance Program and Policy Guide

Version 5.0, *Effective January 6, 2025*

(FP 104-009-2)

FEMA

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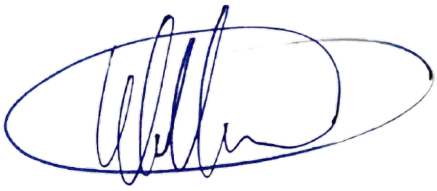
Foreword

On behalf of the Federal Emergency Management Agency (FEMA), I am pleased to issue the fifth edition (Version 5.0) of the "Public Assistance Program and Policy Guide" (PAPPG). This updated version applies to incidents declared on or after January 6, 2025 and supersedes Version 4.[1] As with prior versions, FEMA has archived previous editions for reference, and Version 5.0 serves as the comprehensive, consolidated resource for Public Assistance (PA) Program policies throughout the disaster recovery lifecycle.

The PAPPG provides a robust and streamlined guide for evaluating eligibility under the PA Program. It consolidates relevant policies into a single document, while also referencing external FEMA policies and resources to support stakeholders involved in the implementation of each recovery step. The release of Version 5.0 reflects FEMA's continued commitment to improving access to the PA Program, reducing the documentation burden on our customers, and promoting fair and timely recovery efforts. By integrating cost-effective hazard mitigation measures, Version 5.0 also helps facilitate resilient rebuilding in communities affected by disasters.

Significant updates in this edition include policy changes related to Tribal Nations, resilience and mitigation, and adjustments based on Title 2 Code of Federal Regulations (C.F.R.) updates that took effect on October 1, 2024. Recognizing the urgency of implementing these changes, FEMA has prioritized this publication. Version 5.1 will introduce further updates, including additional wildfire policies, the remaining 2 C.F.R. changes, and expanded appendices, ensuring continued alignment with emerging needs and priorities in disaster recovery.

We are confident that Version 5.0 of the PAPPG will further enhance the effectiveness, accessibility, and resilience of the PA Program as it supports the recovery of communities across the nation. We look forward to your feedback to help inform the next version. All recommendations for the PAPPG can be sent to FEMA-Recovery-PA-Policy@fema.dhs.gov.



William C. Hagmaier
Assistant Administrator
Recovery Directorate

[1] For previous editions of the PAPPG, refer to: Archives: FEMA Public Assistance Policy | FEMA.gov.

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Summary of Changes

This PAPPG version incorporates the following changes:

Table 1. List of Changes and Clarifications Grouped by General Topic

Topic	Highlighted V5 Improvements
Tribal Nations	▪ To support the protection of tribal significant artifacts, culturally sensitive landscapes and sites, cultural resources, and human remains; clarified that FEMA will not require photos, site maps, and specific location details (such as GPS coordinates) for locations where these cultural artifacts are located; ▪ Clarified that FEMA will accept a Tribal Nation's certified damage assessment, scope of work for restoration, and estimated costs for traditional tribal residences or tribal ceremonial buildings; ▪ Clarified that for locations where only tribal members are allowed, site inspections by FEMA staff are not permitted; ▪ Clarified that mutual aid agreements or memoranda of understanding are available resources for Tribal Nations and provided guidance on reimbursement when there is no pre-existing written agreement; and, ▪ Clarified that if a Tribal Nation received funding from the Bureau of Indian Affairs or Federal Highway Administration for construction or maintenance of tribal roads, those roads are still eligible for FEMA PA funding under a presidentially declared disaster.
Resilience	▪ Included language about resilience considerations throughout; ▪ Defined and incorporated language throughout regarding nature-based solutions; ▪ Clarified that PA mitigation measures can be implemented for all hazards, not just the hazard that caused the damage; ▪ Added information and reference to the benefit-cost analysis (BCA) Toolkit; ▪ Increased opportunities to mitigate improved projects involving facility replacement or relocation; and, ▪ Expanded Appendix J to include additional measures, with two measures focused on wildfire; and, ▪ Incorporated considerations regarding how policy changes impact disadvantaged communities
Simplification	▪ As a result of stakeholder feedback, removed non-regulatory processes for inclusion in other PA guidance; ▪ Where possible, removed "may" and "should," and replaced with "must" to clarify requirements; and, ▪ Redefined acronyms at the beginning of each chapter and reduced acronym use.

Topic	Highlighted V5 Improvements
Documentation and Requirements	▪ Clarified documentation and information requirements for small projects and large projects; ▪ Reduced documentation and information requirements for small projects; ▪ Incorporated PA's sampling procedures; ▪ Clarified that maintenance records are not always required to substantiate damage; ▪ Included more options for documentation to support legal responsibility; and, ▪ Removed requirement for pre-approval prior to completing private property debris removal.
Added Content	▪ Incorporated Validated as You Go (VAYGo) content and resources; ▪ Added subsection titled "Telecommunications Equipment Purchase;" ▪ Added "self-insurance or self-insured retention" to list of insurance types; and, ▪ Included insurance commitment opportunities which benefit applicants experiencing subsequent disasters.
Clarifications	▪ Clarified road damage from damage caused by submerged and inundated as distinct types of damage; ▪ Clarified that snow assistance is not authorized for emergency declarations; and, ▪ Conveyed FEMA's support to report suspicious activities as well as who and how to report.
Private Non-Profit (PNP)	▪ Consolidated private non-profit information into one section; ▪ Explained for-profit entities' ineligibility; and, ▪ Clarified that Houses of Worship and faith-based organizations are considered private nonprofit organizations.
Sheltering	▪ Removed pre-approval requirement for non-congregate sheltering activities in traditional settings (i.e., hotels/motels, dormitories, etc.); ▪ Removed childcare services as a standalone emergency protective measure and is now only eligible when associated with emergency sheltering; and, ▪ Expanded emergency sheltering eligibility to include survivors' "household pets, service animals, assistance animals" and removed requirement for pet owners to be sheltered for pet sheltering to be eligible.

Topic	Highlighted V5 Improvements
Environmental and Historic Preservation (EHP)	▪ Explained and provided examples of projects that have potential to impact EHP resources; ▪ Provided guidance on navigating the EHP compliance process; ▪ Clarified documentation requirements for streamlined EHP reviews and complex EHP reviews; ▪ Provided EHP considerations by category of work; and, ▪ Provided examples of project types that may have impacts to natural and cultural resources.
Statutory and Regulatory Updates	▪ Incorporated the revision to 2 C.F.R. Part 200 which integrates Office of Management and Budget (OMB)'s policy priorities and strives to reduce agency and recipient burden; and, ▪ Updated guidance from the Payment Integrity Information Act, which supersedes the Improper Payments Elimination and Recovery Improvement Act.

Policy and Guidance Documents Incorporated and Superseded

- *Building Code and Floodplain Management Administration and Enforcement* (FEMA Policy 204-079-01)
- "Combining Wildfires Under a Major Disaster Declaration" Memo (August 21, 2021)
- *Consensus-Based Codes, Specifications, and Standards for Public Assistance* (FEMA Recovery Interim Policy 104-009-11 Version 2)
- "Emergency NCS" Memo (June 28, 2022)
- *Federal Flood Risk Management Standard (FFRMS)* (FEMA Policy 206-24-005)
- *Mission Assignments* (FEMA Policy 104-010-3)
- *Public Assistance Appeals and Arbitration* (FEMA Policy 104-22-0001)
- *Public Assistance Guidance on Inundated and Submerged Roads* (FEMA Policy 104-009-13)
- *Public Assistance Simplified Procedures* (FEMA Policy 104-23-001)
- "Recovery Program Enhancements to Support Tribal Nations" Memo (November 22, 2023)
- "Simplifying the PA Management Costs" Memo (March 01, 2023)
- "Simplifying the PA Program 1" Memo (March 28, 2022)
- "Simplifying the PA Program 2" Memo (September 6, 2022)
- "Wildfire Policy Guidance" Memo (October 17, 2022)
- *Tribal Declarations Interim Guidance* (FP 104-009025-001)

(For a list of guidance documents summarized and referenced, please see the Appendix A: References and Resources list.)

Introduction

I. Document Scope, Purpose, and Use

The Federal Emergency Management Agency's (FEMA's) "Public Assistance Program Policy Guide" (PAPPG) contains consolidated Public Assistance (PA) Program policies and procedural requirements for the entire program delivery life cycle. The PAPPG provides comprehensive PA policy to use when evaluating eligibility. The PAPPG references and provides links to other FEMA policies and documents such as standard operating procedures and fact sheets that provide guidance for those involved with implementing each of the various steps.

Based on extensive feedback from internal and external stakeholders, this version of the PAPPG no longer includes content focused on FEMA's internal processes. Instead, a new companion document for FEMA staff known as the "Public Assistance Program Delivery Guide"[2] provides an overview of how FEMA implements the PA Program.

II. Applicability

FEMA applies Version 5 of the PAPPG to incidents declared on or after January 6, 2025. Individuals who have responsibilities managing, implementing, or relating to the PA Program should refer to the PAPPG for PA policy and regulatory procedural requirements.

III. Document Management and Maintenance

FEMA generally publishes proposed PA policy language for public comment prior to publishing in the PAPPG.[3] When the policy is deemed economically significant,[4] FEMA generally publishes it in the Federal Register. Additionally, FEMA is committed to strengthening its nation-to-nation relationship and will consult with tribal officials on actions that have tribal implications.[5] FEMA conducts a comprehensive review of this publication no less than every three years. All recommendations for the PAPPG should be sent to FEMA-Recovery-PA-Policy@fema.dhs.gov.

IV. Public Assistance Program Overview

The mission of FEMA's PA Program is to provide assistance to state, local, Tribal Nation, and territorial (SLTT) governments and certain types of private nonprofit (PNP) organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the PA Program, FEMA provides supplemental federal grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities, and specific facilities of certain PNP organizations. The PA Program also encourages protection of these damaged facilities from future incidents by providing

[2] For more information, refer to: *Public Assistance Program Delivery Guide*.
[3] Stafford Act § 325; 42 United States Code (U.S.C.) § 5165c.
[4] EO 12866, Regulatory Planning and Review.
[5] FEMA Tribal Consultation Policy FEMA Policy #101-002-02.

assistance for hazard mitigation measures and code compliance. FEMA provides this assistance based on the authority granted in statutes, executive orders (EOs), regulations, and policies.

Along with the PAPPG, there are many resources that help navigate the PA Program. References, including EOs, policies, regulations, and laws are available in the Appendix A: References and Resources. The Public Assistance Resource Library[6] contains general program guidance that focuses on restoring communities affected by major disasters or emergencies. The "Public Assistance Program Delivery Guide"[7] also contains additional process information and context for the PA Program; while its primary audience is FEMA staff, SLTT partners may find it a useful resource. Lastly, definitions for terms used throughout this document can be found in Appendix C. Terms and Definitions.

V. Authorities

FEMA provides assistance based on authorities defined in statutes and regulations. These authorities specify requirements that must be met by both FEMA and the communities it serves.

A. Statutes

Statutes are federal laws passed by the U.S. Congress and signed by the president. All PA Program assistance must comply with all applicable statutes. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq. authorizes FEMA to provide assistance under the PA Program.

1. STAFFORD ACT

Stafford Act sections that apply to the assistance FEMA provides under the PA Program include:

- Title I – Findings, Declarations and Definitions
- Title III – Major Disaster and Emergency Assistance Administration
  - Sec. 308. Nondiscrimination in Disaster Assistance
  - Sec. 311. Insurance
  - Sec. 312. Duplication of Benefits
  - Sec. 316. Protection of Environment
  - Sec. 323. Minimum Standards for Public and Private Structures
  - Sec. 324. Management Costs
- Title IV – Major Disaster Assistance Programs (applies to Major Disaster Declarations)
  - Sec. 403. Essential Assistance
  - Sec. 406. Repair, Restoration, and Replacement of Damaged Facilities
  - Sec. 407. Debris Removal

[6] For more information, refer to: Public Assistance Resource Library | FEMA.gov.
[7] For more information, refer to: *Public Assistance Program Delivery Guide*.

- Sec. 422. Simplified Procedures
- Sec. 428. Public Assistance Program Alternative Procedures

- Title V – Emergency Assistance Programs (applies to Emergency Declarations)
  - Sec. 502. Federal Emergency Assistance
- Title VII – Miscellaneous
  - Sec. 705. Disaster Grant Closeout Procedures

2. OTHER STATUTES

- Americans with Disabilities Act of 1990
- Sections 504 and 508 of the Rehabilitation Act of 1973
- Civil Rights Act of 1964
- Federally Recognized Tribe List Act of 1994
- Environmental and Historic Preservation Acts
- Payment Integrity Information Act of 2019
- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
- Executive Order 14112, Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination
- Presidential Memorandum of November 5, 2009, Tribal Consultation
- Federally Recognized Tribe List Act of 1994
- Fair Labor Standards Act

B. Regulations

Regulations[8] are federal rules with the force and effect of law that implement a statute based on a federal agency's interpretation of that statute.[9] FEMA and any entity receiving PA assistance must comply with all applicable federal regulations.[10]

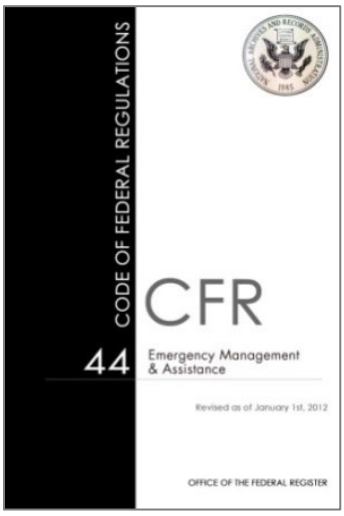


Figure 1. 44 C.F.R.

1. TITLE 44 OF THE CODE OF FEDERAL REGULATIONS

FEMA published PA Program rules in the following parts of Title 44 of the Code of Federal Regulations (C.F.R.), Emergency Management and Assistance:[11]

- Part 206 Subpart G, Public Assistance Project Administration;
- Part 206 Subpart H, Public Assistance Eligibility; and

[8] For the electronic version for the C.F.R., refer to: eCFR.
[9] Stafford Act § 321; 42 U.S.C. § 5164.
[10] 44 C.F.R. § 206.200(b).
[11] Stafford Act § 325; 42 U.S.C. § 5165c; 44 C.F.R. § 1.4.

- Part 206 Subpart I, Public Assistance Insurance Requirements.

Additional regulations that must be adhered to when receiving funding through the PA Program:

- Part 7 Subpart A, Nondiscrimination in FEMA-Assisted Programs – General
- Part 7 Subpart E, Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from FEMA
- Part 9, Floodplain Management and Protection of Wetlands
- Part 201, Mitigation Planning
- Part 204, Fire Management Assistance Grant (FMAG) Program
- Part 206, Federal Disaster Assistance

2. TITLE 2 OF THE CODE OF FEDERAL REGULATIONS

The Office of Management and Budget published 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to establish uniform rules for federal awards, including but not limited to:

- Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart E – Cost Principles
- Subpart F – Audit requirements
- Subpart D – Post Federal Award Requirements
- Appendix II - Contract provisions for non-federal entity contract under federal awards, and
- Appendix VI - PA Cost Allocation Plans

3. OTHER C.F.R.

- 7 C.F.R. § 1730.25, Corrective action (Rural Utilities Service [RUS] borrowers only)
- 15 C.F.R. Part 774, The Commerce Control List
- 22 C.F.R. Part 121, The United States Munitions List
- 40 C.F.R. Part 261, Identification and Listing of Hazardous Waste
- 40 C.F.R. Parts 1500–1508, NEPA Regulations
- 48 C.F.R. Subpart 2.1, Federal Acquisition Regulation

C. Policy

FEMA issues policy to articulate the Agency's intent and direction in applying statutory and regulatory authority to achieve desired outcomes. The purpose of the PAPPG is to define FEMA's PA Program policy and procedural requirements. Separate FEMA policies and guidance documents that apply to the PA Program are referenced in the PAPPG where applicable and listed in the Appendix A: References and Resources section. PA funding must comply with these requirements. Only the Associate Administrator of Recovery at FEMA Headquarters has the authority to modify or waive PA policy.

D. Public Assistance Web-Based Grants System

FEMA uses web-based systems to promote transparency and manage project information. Recipients and applicants use PA Grants Portal[12] to submit documentation and information, review all aspects of Public PA project applications, and track the progress of their applications. FEMA uses PA Grants Manager[13] to review Requests for Public Assistance (RPA), oversee the development and review of project applications, track application progress, and receive necessary information from recipients and applicants.

[12] For more information, refer to: Grants Portal.
[13] For more information, refer to: Grants Manager.

Chapter 1: Declarations and Planning

The Stafford Act authorizes the president to provide federal assistance when the magnitude of an incident or threatened incident exceeds the affected state,[14] local,[15] Tribal Nation,[16] and territorial (SLTT) government capabilities to respond and recover. This chapter explains requirements for damage assessments, declaration requests and FEMA's evaluation criteria, the contents of the declaration, and the initial administrative requirements for a state, Tribal Nation, and territorial (STT) government to receive assistance.

I. Damage Assessments

After an incident causes widespread damage, the STT government conducts an initial damage assessment before requesting a joint Preliminary Damage Assessment (PDA) to confirm the need for federal assistance.[17] When the STT government determines that the incident exceeds its ability to respond, it requests a joint PDA with FEMA. This initial damage assessment should identify affected jurisdictions, damaged infrastructure, and provide preliminary cost estimates for response and recovery efforts. Additionally, the STT collects data to assess the need for federal assistance, including evaluating local resource capacity to support ongoing response and recovery.

During a joint PDA, FEMA, SLTT governments, and certain private nonprofit (PNP) organization officials work together to estimate and document the impact and magnitude of the incident.[18] Accurate and comprehensive PDAs are critical to enabling efficient response and recovery. FEMA's "Preliminary Damage Assessment Guide"[19] provides detailed information to assist staff involved with damage assessments and describes how FEMA utilizes the information when preparing requests for major disaster declarations. For example, applicants must provide insurance policies when requested during a PDA as FEMA only considers costs that would be eligible for reimbursement through the PA Program in its declaration determination. The Regional Administrator consults with the STT to determine if the requirement for a joint PDA may be waived based on the severity and magnitude of the incident.[20]

Terminology

When an entity applies for PA funding, it is an **applicant**. Once an applicant receives funding, it is a **subrecipient**. For simplicity, FEMA uses the term "applicant" throughout this document when referring to the responsible entity for a project rather than making distinctions between an entity as the

[14] Stafford Act § 102(4); 42 U.S.C. § 5122; 44 Code of Federal Regulations (C.F.R.) § 206.2(a)(22).
[15] Stafford Act § 102(8); 42 U.S.C. § 5122; 44 C.F.R. § 206.2(a)(16).
[16] Stafford Act § 102(6); 42 U.S.C. § 5122; 44 C.F.R. § 206.201(h),
[17] 44 C.F.R. § 206.33(a).
[18] 44 C.F.R. § 206.33(b).
[19] For more information, refer to: *Preliminary Damage Assessment Guide*.
[20] 44 C.F.R. § 206.33(d).

applicant, recipient or subrecipient. FEMA uses the terms "recipient" and "subrecipient" when necessary to differentiate between the two entities.

II. Declaration Request

The governor[21] or tribal chief executive[22] requests a declaration from the president through FEMA.[23] A Tribal Nation may elect to be a recipient[24] or a subrecipient[25] under a state or territorial declaration or request its own declaration as a recipient. A Tribal Nation may seek different types of assistance through Tribal Nation and state declarations; for example, a Tribal Nation may seek PA and the Hazard Mitigation Grant Program (HMGP) through the state, while seeking Individual Assistance (IA) through a tribal declaration. The Tribal Nation, however, cannot receive the same type of assistance (e.g., PA, IA, and HMGP) through both tribal and state declarations for the same incident. This is necessary to ensure that FEMA does not provide duplicative benefits.[26]

For state and territorial declaration requests, the governor must submit the request no later than 30 days after the incident occurs. FEMA extends the deadline if the governor submits a written time extension request within 30 days of the incident, providing reasonable justification for the delay.[27] If the Tribal Nation wishes to be its own recipient, additional guidance for this process is detailed in the Tribal Declarations Interim Guidance.[28] When a severe or catastrophic incident occurs, the governor or tribal chief executive may submit a declaration request prior to completion of the PDA.[29] This process is referred to as an expedited declaration request. In such circumstances, assistance is limited to that which would address immediate needs (lifesaving or life-sustaining items) based on rapid assessments until the PDA is completed.

III. Declaration Evaluation

Generally, FEMA uses PDA information to evaluate the need for assistance under the PA Program as follows:

- For emergency declarations, FEMA evaluates whether available resources and authorities are adequate and whether federal assistance under Section 502 of the Stafford Act is necessary to supplement SLTT efforts to save lives, protect property, and public health and safety, or to lessen or avert the threat of a catastrophe.[30]
- For major disaster declarations, FEMA reviews facility impacts and cost information to ensure the estimated amounts do not include costs for ineligible items, costs covered by insurance, or costs above and beyond what is necessary to restore the facility to pre-disaster design and capacity (e.g.,

[21] Stafford Act § 102(5); 42 U.S.C. § 5122; 44 C.F.R. § 206.2(12). For more information, refer to: Request For Presidential Disaster Declaration | fema.gov.
[22] Stafford Act § 102(12); 42 U.S.C. § 5122. For more information, refer to: How to Request a Federal Disaster Declaration for Tribal Nations | fema.gov.
[23] Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5170 and 5191; 44 C.F.R. §§ 206.35 and 206.36.
[24] 44 C.F.R. § 200.201.
[25] 44 C.F.R. § 200.201.
[26] Stafford Act § 312; 42 U.S.C. § 5155.
[27] 44 C.F.R. §§ 206.35(a) and 206.36(a).
[28] Stafford Act § 312; 42 U.S.C. § 5155.
[29] 44 C.F.R. § 206.33(d).
[30] 44 C.F.R. § 206.37(c)2.

resiliency/mitigation measures), or facilities under authority of another federal agency. FEMA evaluates the estimated cost of assistance and other factors when making a recommendation to the president for whether assistance is warranted.[31] The factors for state and territorial governments differ from Tribal Nation factors. FEMA will only provide authorization for snow assistance under a major disaster declaration when specifically requested. Requests for snow assistance are only eligible for major disaster declarations and must be submitted with a winter storm or snowstorm declaration request. Additional information is available in Appendix K: Snow Declarations.

A. State and Territorial Governments

For state and territorial governments, FEMA's evaluation for a major disaster declaration is based on six primary factors:

- Estimated cost of assistance;
- Localized impacts;
- Existing insurance coverage;
- Previous mitigation efforts;
- Recent multiple disasters; and,
- Other federal agency programs.

FEMA compares the estimated eligible amounts to the established annual per capita indicators. To account for localized impacts when the statewide per capita impact is low, FEMA evaluates whether there are extraordinary concentrations of damage resulting in significantly high per capita impacts at the local government level.

To encourage hazard mitigation, FEMA considers whether SLTT government mitigation measures taken prior to the incident likely reduced the damage impacts, especially if such mitigation averted damage that would have increased the estimated eligible cost above the per capita indicator.

Understanding that the effects of multiple disasters in a confined period of time can affect response and recovery capabilities, FEMA also evaluates the overall impacts of federal and STT declarations that have occurred within the past 12 months and the extent to which the STT government has expended their funds. If there were disasters prior to the 12-month period that still have substantial impacts on SLTT governments, FEMA also considers impacts from these disasters.

B. Tribal Nations

FEMA will consider a declaration request from a federally recognized Tribal Nation if the estimated PA-eligible damage or costs meet or exceed the threshold for the minimum damage amount[32] per the Tribal Declarations Interim Guidance. FEMA evaluates Tribal Nation requests for a major disaster declaration based on the following factors:

- Types and amounts of damage;

[31] 44 C.F.R. § 206.48(a).
[32] For more information, refer to: Tribal Declarations Interim Guidance | fema.gov.

- Economic impact of the incident;
- Tribal Nation resources;
- Demographics;
- 24-month disaster history;
- Previous mitigation efforts;
- Other federal agency programs.
- Insurance;
- Unique conditions that affect Tribal Nations; and,
- Other relevant information.

The Tribal Declarations Interim Guidance[33] is a comprehensive resource for Tribal Nations on Stafford Act declarations, disaster assistance, and related requirements, including the criteria FEMA will use to evaluate declaration requests. Tribal Nations may request—at no cost—technical assistance. At any time prior to, during, and after a Tribal Declaration request, Tribal Nations may request from the FEMA the deployment of a Tribal Liaison Officer (TLNO), when available, to provide direct, onsite technical assistance. See Tribal Declarations Interim Guidance[34] for available resources and guidance on requesting technical assistance.

IV. Declaration Determinations

For FEMA to provide assistance, the president must declare that an emergency or major disaster exists.[35] The declaration establishes the:

- Type of incident;
- Incident period;
- Designated areas;
- Types of assistance;
- Federal cost share; and,
- Federal coordinating officer (FCO).

A. Incident Type

The declaration designates the type of incident (e.g., hurricane, wildfire, or earthquake). For emergency declarations, an incident is any instance determined by the president that warrants supplemental emergency assistance to save lives, protect property, and public health and safety, or to lessen or avert the threat of a catastrophe.[36] For major disaster declarations, an incident is any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood, or explosion.[37]

[33] *Ibid.*
[34] Ibid.
[35] For more information, refer to: Disaster Information | fema.gov.
[36] Stafford Act § 102(1); 42 U.S.C. § 5122; 44 C.F.R. §§ 206.2(a)(9) and 206.35.
[37] Stafford Act § 102(2); 42 U.S.C. § 5122; 44 C.F.R. § 206.2(a)(17).

Major disaster declarations may include a combination of incident types, such as severe storms and landslides.

B. Incident Period

The declaration designates the incident period. The incident period is the span of time during which the federally declared incident occurred.[38] This period varies in duration, depending on the incident. The declaration includes an incident start date and typically includes an end date to the incident period. In some cases, the end date may be designated as "continuing."

C. Designated Areas

The declaration specifies which areas (e.g., county, parish, city, or tribe) are eligible to receive federal assistance, referred to as the "declared area."[39] FEMA may add additional areas after the initial designation. To request an addition, the governor or the governor's authorized representative (GAR)[40], or for Tribal Nation declarations, the tribal chief executive or tribal authorized representative (TAR), must submit the request within 30 days of the declaration date or the end of the incident period, whichever is later. FEMA will extend the deadline if the governor or GAR or, for tribal declarations, the tribal chief executive or TAR submits a written extension request within the 30-day window, providing justification for the delay.[41]

D. Types of Assistance

The declaration designates the types of federal assistance authorized.[42] The types of assistance authorized differs between emergency and major disaster declarations and may vary among declared areas. For emergency declarations, the president may authorize limited immediate and short-term assistance essential to save lives, protect property, and public health and safety, or to lessen or avert the threat of catastrophe.[43] For major disaster declarations, the president may authorize Individual Assistance (IA), Hazard Mitigation Programs, and PA. Through IA's Individuals and Households Program (IHP), FEMA provides assistance to eligible individuals and households. FEMA provides risk management resources to identify, assess, and prioritize possible risk reduction and minimize potential loss of life and property from future disasters through its Hazard Mitigation Grant Program (HMGP).

FEMA Regional Administrators[44] have the authority to issue Fire Management Assistance Grant (FMAG) declarations for wildfires that threaten to cause such destruction that would constitute a major disaster.[45] The FMAG Program is separate and distinct from the PA Program. The "Fire Management Assistance Grant

[38] 44 C.F.R. § 206.32(f).
[39] 44 C.F.R. §§ 206.2(a)(6) and 206.40(b).
[40] 44 C.F.R. §§ 206.2(a)(13) and 206.41(d).
[41] 44 C.F.R. § 206.40(c-d).
[42] 44 C.F.R. § 206.40(a).
[43] 44 C.F.R. § 206.63.
[44] 44 C.F.R. § 206.2(a)(21).
[45] Stafford Act § 420; 42 U.S.C. § 5187; 44 C.F.R. § 204.

Program and Policy Guide"[46] describes the declaration criteria, eligibility, and procedures of the FMAG program.

E. Federal Cost Share

The assistance FEMA provides through its PA Program is subject to a federal cost share, which means that FEMA provides funding for a portion of the project and the recipient or applicant is responsible for the remaining portion.[47] The federal cost share ensures local interest and involvement through financial participation. The federal cost share is not less than 75 percent of the eligible costs.[48] FEMA recommends an increase up to 90 percent if actual federal obligations, excluding administrative costs, meet or exceed a qualifying threshold.[49] For debris removal and emergency protective measures specifically, the federal cost share may be increased in certain circumstances, and for limited periods of time, if warranted.[50] See Increased Federal Cost Share for a Limited Timeframe in Chapter 6 for details on how FEMA applies the increased federal cost share.

Applicants may only apply other federal award funds toward the PA non-federal cost share if the other federal agency has specific statutory authority allowing its funds to be used to meet cost-share requirements.[51] For example, the U.S. Department of Housing and Urban Development's (HUD's) Community Development Block Grant (CDBG) Program may be used toward the non-federal cost share on PA projects if certain requirements are met.[52] FEMA applies the federal cost share at the project level. Therefore, any other agency's federal funds must be applied at the project level and cannot be used across multiple projects (except for permanent work alternative procedure projects as described in Appendix G: Alternative Procedures for Permanent Work). Further, if an applicant uses funds from another federal agency to meet the non-federal cost share, it must meet all requirements of the other agency as well as all PA Program requirements. Applicants cannot apply PA funds toward the non-federal cost share of other federal agency awards.

F. Declaration-Related Appeals

For states and territories, if FEMA denies a declaration, types of assistance, or areas, the governor may submit an appeal through the Regional Administrator. The appeal and any justification or additional information must be submitted within 30 days of the denial letter date. If additional time is needed to submit a declaration-related appeal, a time extension request citing the reason for delay must be submitted within 30 days of the denial letter.

[46] For more information, refer to: Fire Management Assistance Grants | fema.gov.
[47] 44 C.F.R. § 206.203(b).
[48] Stafford Act §§ 403(b), 406(b), 407(d), and 503(a); 42 U.S.C. §§ 5170b, 5172, 5173, 5193; 44 C.F.R. §§ 206.47(a) and 206.65.
[49] 44 C.F.R. § 206.47(b).
[50] 44 C.F.R. § 206.47(d).
[51] Stafford Act § 312; 42 U.S.C. § 5155; 2 C.F.R. § 200.306(b)(5).
[52] For more information, refer to: *FEMA-HUD CDBG-DR Flexible Match Implementation Guide*.

For Tribal Nations, if certain types of assistance or certain areas requested to be authorized in the declaration are denied, the tribal chief executive may submit an appeal per the Tribal Declarations Interim Guidance.

The governor or tribal chief executive, GAR, or TAR may appeal, or request time extensions to appeal, a denial of the types of assistance or areas. However, only the governor or tribal chief executive may appeal, or request a time extension to appeal, a declaration denial. FEMA's Assistant Administrator for the Recovery Directorate at FEMA Headquarters approves time extensions when there is a justified reason for the delay.[53]

G. Recipient Administrative Requirements

There are several administrative requirements recipients must fulfill before FEMA obligates funds, detailed in the following sections.

FEMA provides funding to cover administrative costs related to managing grants and offers technical assistance at no extra cost to support recipients' success. For new recipients, the "FEMA New Recipients of Disaster Grants Guide"[54] provides additional information.

H. Application for Federal Assistance

The declared state, Tribal Nation, or territory must complete and submit the following Standard Forms (SFs)[55] before FEMA provides assistance:

- "Application for Federal Assistance" (SF-424);
- "Budget Information for Non-Construction Programs" (SF-424A);
- "Assurances for Non-Construction Programs" (SF-424B);
- "Budget Information for Construction Programs" (SF-424C); and,
- "Assurances for Construction Programs" (SF-424D).

The SF-424 includes the period of performance (POP) for the PA award (referred to as the prime award). The prime award POP begins on the first day of the incident period and initially extends four years from the declaration date.

I. FEMA-State/Tribal Nation Agreement

After every declaration, FEMA and the applicable STT government enter into a FEMA-state agreement (FSA) or FEMA-Tribal Nation agreement (FTA) that defines the understanding, commitments, and conditions under which FEMA provides assistance. FEMA and the governor or tribal chief executive must sign this agreement before FEMA provides assistance. If necessary, because of exigent circumstances, FEMA may authorize essential emergency services or housing assistance under the Individuals and Households Program while the agreement is in process for signature.[56]

[53] 44 C.F.R. § 206.46.
[54] For more information, refer to: *FEMA New Recipients of Disaster Grants Guide*.
[55] 44 C.F.R. § 206.202(e). The SF-424 forms are available at: SF-424 Forms.
[56] 44 C.F.R. § 206.44(a).

J. Payment Management System

FEMA provides PA funding to recipients via the U.S. Department of Health and Human Services (HHS) Payment Management System. Therefore, if an entity is a recipient for the first time, it must request access to the Payment Management System and complete the "Direct Deposit Form" (SF-1199A) to obtain a FEMA-specific account before FEMA can provide funding.[57]

K. Public Assistance Administrative Plan

Recipients must have a FEMA-approved administrative plan[58] that describes how it intends to administer the PA Program before FEMA provides PA funding for any project. At a minimum, the administrative plan must include: [59]

- The agencies responsible for program administration;
- Identification of staffing functions, the source of staff to fill the functions, the management and oversight responsibilities of each function; and
- Procedures for:
  - Notifying potential applicants of the availability of the PA Program;
  - Conducting applicant briefings;
  - Assisting FEMA in determining applicant eligibility;
  - Participating with FEMA in conducting preliminary damage assessments;
  - Participating with FEMA in establishing PA mitigation and insurance requirements;
  - Processing appeals, time extension requests, and other project-related correspondence;
  - Complying with administrative requirements of 2 Code of Federal Regulations (C.F.R.) § 200 and 3002 and 44 C.F.R. § 206;
  - Complying with audit requirements of 2 C.F.R. § 200 and 3002;
  - Processing requests for advances of funds and reimbursement;
  - Determining staffing and budgeting requirements; and,
  - Determining the pass-through funds for management costs provided under 44 C.F.R. § 207.

State and territorial recipients must submit their administrative plan to FEMA annually. Additionally, an amendment is required for each disaster declaration to address the specifics of the new incident. The recipient must incorporate the approved administrative plan into its emergency plan. Tribal Nations submit their PA administrative plan for each declared disaster in which they are a recipient. For further guidance see Tribal Declarations Interim Guidance. [60] Subrecipients do not require PA administrative plans.

[57] The *Payment Management System Access Form* and the SF-1199A are available at: Payment Management Services | psc.gov.
[58] Templates for administrative plans are available at: Public Assistance Project Templates and Forms.
[59] 44 C.F.R. § 206.207(b).
[60] For more information, refer to: Tribal Declarations Interim Guidance | fema.gov.

L. Hazard Mitigation Plan

Hazard mitigation is most effective when implemented under a comprehensive, long-term mitigation plan that considers future conditions. Communities engage in mitigation planning to identify risks and vulnerabilities to develop long-term strategies for protecting people and property from future incidents. Recipients must have a FEMA-approved hazard mitigation plan[61] before FEMA can provide PA funding for any permanent work.[62] A recipient must show in its plan how it intends to reduce risks from natural hazards. Recipients are required to update the plan every 5 years.

M. Recipient-Led Public Assistance

FEMA has found that recovery efforts are most successful when locally executed, state or Tribal Nation managed, and federally supported. Local county or parish officials are best equipped to understand the unique needs of their communities, while Tribal Nations know what is most important to their people and how to effectively guide their recovery. Disaster recovery progresses at different rates for each locality and involving the right mix of local subject matter experts early in the process ensures that environmental, historic, sustainability, and resilience factors are considered from project formulation through implementation.

This approach forms the basis of recipient-led PA operations. While it may not be suitable for widespread disasters that could overwhelm local, state, or Tribal Nation resources, recipient-led PA events offer opportunities to build local capacity and capability while addressing the specific needs of the recovering community.

In recipient-led PA events, recipients can lead any of the following key PA functions in lieu of FEMA:

- Customer service;
- Site inspections; and,
- Scoping and costing.

In addition to any support requested by recipients, FEMA maintains the following responsibilities:

- Oversight of the PA operation;
- Quality control reviews;
- Law, regulation, and EO compliance reviews; and,
- Final eligibility determination and obligation authority.

FEMA and the recipient discuss whether a recipient-led PA operation is appropriate given the recipient's current capacity. These discussions may begin before an incident when the recipient is assessing its capability to lead a future PA operation or after a declaration request. FEMA and the recipient examine the recipient's capacity at the time of the disaster and incident-specific characteristics to determine the feasibility of recipient-led PA. Typically, the best candidates for recipient-led PA are recipients with the following factors:

[61] For more information, refer to: Hazard Mitigation Planning | fema.gov.
[62] 44 C.F.R. § 201.3(c)(1) and (e)(1).

- Recent disaster experience;
- Adequate recipient staff or staff augmentation mechanisms;
- A fiscal accounting system tracks specific projects, withstands audit, and may be used to evaluate appeals; and,
- Established record of meeting deadlines for PA grant management activities.

To opt in to recipient-led PA, the Regional Administrator and the governor or the GAR[63], or for Tribal Nation declarations, the tribal chief executive or TAR must enter into an operational agreement, as an addendum to the FEMA-state agreement (FSA) or FEMA-Tribal Nation agreement (FTA), that delineates roles and responsibilities. After signing, recipients have 72 hours to sign the operational agreement. The Regional Administrator may approve requests to participate in recipient-led PA after the 72 hours at its discretion. The "State-Led Public Assistance Guide"[64] provides additional guidance on the processes, resources, and capabilities required.

[63] 44 C.F.R. §§ 206.2(a)(13) and 206.41(d).
[64] For more information, refer to: *State-led Public Assistance Guide*.

Chapter 2: Coordination and Appeal Rights

FEMA and recipients work in partnership to administer the PA Program and provide customer service to each applicant. This chapter defines how FEMA documents its eligibility determinations and explains applicants' rights to appeal decisions by FEMA.

I. PA Eligibility

The four basic components of PA eligibility are:

- Applicant;
- Facility;
- Work; and,
- Cost.

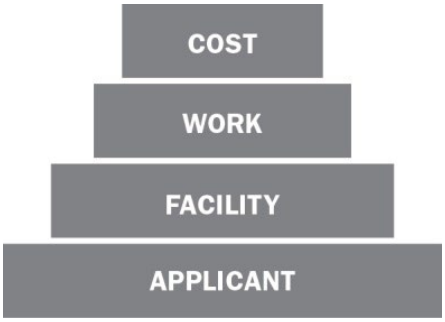


Figure 2. PA Eligibility Pyramid

FEMA refers to these components as the building blocks of the eligibility pyramid. FEMA evaluates each building block to determine eligibility, starting at the foundation (applicant) and working up to cost at the top of the pyramid (see Figure 2. PA Eligibility Pyramid).

There are two exceptions to the standard eligibility pyramid review process:

- For state, local, Tribal Nation, and territorial (SLTT) government applicants, evaluating facility eligibility is not a necessary step for debris removal or most emergency protective measures, as described in Chapter 7: Emergency Work Eligibility.
- For private nonprofit (PNP) organizations, FEMA must determine whether the PNP owns or operates a facility that provides an eligible service to determine whether the applicant is eligible. See Applicant Eligibility: Private Nonprofit Organizations in Chapter 3 for additional information and a pyramid specific to PNP eligibility.

FEMA understands the importance of providing timely and effective support for recovery efforts. To ensure eligibility for assistance, FEMA follows a comprehensive process based on specific information and documentation submitted by applicants, as outlined in the PAPPG. FEMA works closely with recipients and applicants, reviewing the details carefully to verify eligibility. This includes the "who, what, when, where, why, and how much" needed to support each claim.

While FEMA is committed to assisting applicants through this process, it's important to note that providing adequate documentation is essential. If an applicant cannot demonstrate eligibility for any of the components—whether the applicant, facility, work, or cost—FEMA will not be able to approve PA funding. To make the process smoother, documentation and information requirements have been simplified. Simplified Procedures[65] streamlines the application process for small projects and reduces the administrative burden of providing all documentation prior to FEMA obligating funds. Tables have been incorporated throughout the PAPPG to provide clear guidance on documentation and information requirements.

[65] For more information, refer to: Simplified Procedures in Chapter 2.I.A.

FEMA's ability to reimburse assistance is governed by legal authorities set forth in statutes and regulations, which outline certain criteria that must be followed. The PAPPG highlights the mandatory nature of these requirements by using terms like "must" or "required," emphasizing their legally binding status. Non-compliance with these requirements could jeopardize an applicant's PA funding, so adhering to these guidelines is crucial to ensure successful outcomes. FEMA is here to support applicants every step of the way, but meeting these requirements is necessary to move forward.

A. Simplified Procedures

Section 422 of the Robert T. Stafford Act allows simplified procedures for small projects. Through this provision FEMA can support the fair delivery of assistance to communities and enable faster recovery for all communities by reducing the administrative burden associated with providing supporting documentation. This is achieved by allowing applicants to submit summary documentation and self-certify rather than providing a burdensome amount of documentation to support eligibility. Applicants must continue to retain all source documentation, including project eligibility records and financial records, for 3 years after the date the recipient submits the certification of completion for the applicant's last small project to FEMA. Throughout the document, the PAPPG lists both documentation and information required for submission to FEMA and records that must be retained by the applicant.

B. Sampling Procedures

FEMA adopted the Government Accountability Office (GAO) approach to sampling as an initiative to increase the efficiency of the PA Program. Sampling is the process of selecting and evaluating a few items in a group to learn something about the whole group or similar, unobserved items, such as when 20 line items are selected from a group of 100 line items. When applicants have a significant number of documents to support claims for assistance, applicants may submit a summary of the documentation, and FEMA will select a representative sample to review. Additionally, if an applicant submits a significant number of damaged sites, in lieu of FEMA inspections at all sites, the applicant may submit damage information and documentation for FEMA to validate using this sampling methodology.[66] The sampling procedure is meant to be flexible in situations where a significant amount of information is submitted (e.g. PDAs, site inspections, documentation review, or closeout).

C. Facilitated Discussions

Most PA projects are free of eligibility disputes; if eligibility issues arise, the intent is that they are quickly resolved. In some cases, eligibility issues may arise from a lack of mutual understanding. Clear, open lines of communication can often resolve misconceptions and provide a path forward. When such discussions reach an impasse, PA staff may offer the opportunity to participate in a facilitated discussion led by a FEMA alternative dispute resolution specialist. These types of informal discussions, led by a trained facilitator, can provide clarity to participants with different perspectives, as well as possible avenues for resolution.

[66] For more information, refer to: *Public Assistance Sampling Procedure*.

D. Requests for Information

During the PA process, if FEMA needs additional information to understand information provided by the applicant, FEMA requests the information or documentation by submitting a request for information (RFI). Responses to RFIs are due by the deadline specified in the RFI. FEMA establishes the deadline based on the nature of the request and in consideration of the type and volume of information or documentation requested, with a minimum of 15 days to respond to the RFI. Therefore, the amount of time allowed may vary. If an applicant fails to meet the deadline and does not request and receive FEMA approval for a time extension to submit the required information, FEMA will deny assistance for the applicant, facility, work, or costs that cannot be verified due to the missing information. Applicants should coordinate with the Recipient and FEMA if there are any questions about the RFI.

E. Notification of an Ineligibility Determination

If, after facilitated discussions and RFIs, FEMA determines that the applicant, facility, work, or cost is ineligible, FEMA provides electronic notice through a determination memorandum or letter that includes:

- An explanation of what assistance FEMA denied and, as applicable, the amount of assistance denied for each item;
- The basis for FEMA's denial, including the provisions of law, regulation, or policy that support the determination; and,
- Information regarding the applicant's rights and procedures to appeal.

FEMA sends the letter or determination memo electronically to both the recipient and applicant. This serves as the formal notification of FEMA's determination and explains the applicant's appeal rights.

A determination could result from any portion of the project application including a Validate as You Go (VAYGo) audit finding. For more information about the VAYGo process, see Recovery of Improper Payments in Chapter 11.

F. Appeal Rights and Requirements

Applicants may appeal any FEMA determination related to an application for the provision of assistance under the PA Program.[67] This includes, but is not limited to, eligibility denials pertaining to an applicant, facility, work, or costs, or time extension denials.

FEMA provides applicants with opportunities to appeal a determination:

- Applicants must submit the first appeal through the recipient to the Regional Administrator.[68]
- If the Regional Administrator partially or fully denies the first appeal, applicants may submit a second appeal through the recipient to the Assistant Administrator for the Recovery Directorate at FEMA Headquarters.[69]

[67] Stafford Act § 423; 42 United States Code (U.S.C.) § 5189a; 44 Code of Federal Regulations (C.F.R.) § 206.206.
[68] 44 C.F.R. § 206.206(b)(1).
[69] 44 C.F.R. § 206.206(b)(2).

All appeals must be in writing and submitted electronically. Recipients must submit all appeals to FEMA via Grants Portal. In an appeal, the applicant must include:

- Documented justification supporting its position;
- The specific funding amount (or amounts if there are multiple issues on appeal) in dispute, as applicable; and,
- Specify the provisions of law, regulation, or policy (applicable to the respective disaster) with which the applicant believes FEMA's determination was inconsistent.[70]

At any point in the appeal process, the applicant may withdraw its appeal by submitting a written request simultaneously to the recipient and FEMA. FEMA sends a written acknowledgment of the withdrawal request simultaneously to the recipient and applicant.

G. Appeal Deadlines

Applicants must submit an appeal to the recipient within 60 days from the date FEMA transmits an eligibility determination or first appeal decision to the applicant and recipient.[71] The recipient must forward the appeal with its written recommendation to FEMA within 120 days from the date FEMA transmits its eligibility determination or first appeal decision.[72] If the respective 60th or 120th day is a Saturday, Sunday, or federal holiday, FEMA accepts it as timely if received by the first business day after the deadline.[73] If either the applicant or recipient does not meet the respective deadline, FEMA denies the appeal as untimely.

H. Appeal Review and Decisions

Upon receipt of the appeal, FEMA reviews the appeal content and uses the administrative record and the laws, regulations, and policies applicable to the respective incident to analyze the appeal. FEMA may request additional information via an RFI, submit the appeal to an independent expert or experts for technical review and recommendations, or make its decision based on the documentation and information provided at the time of appeal submission.[74] FEMA may identify and review new eligibility issues that were not previously raised or addressed in the prior determination.



Terminology

The **administrative record** may include, but is not limited to, project application (all versions); supporting documentation, including photographs and technical reports; and all written correspondence, including eligibility determinations.

[70] 44 C.F.R. § 206.206(b)(1)(i) and (b)(2)(i).
[71] 44 C.F.R. § 206.206(b)(1)(ii)(A) and (b)(2)(ii)(A).
[72] 44 C.F.R. § 206.206(b)(1)(ii)(A) and (b)(2)(ii)(A).
[73] Federal holidays are defined by the Office of Personnel Management and listed at: Federal Holidays | opm.gov.
[74] 44 C.F.R. § 206.206(b)(1)(ii) and (iii) and (b)(2)(ii) and (iii).

Within 90 days of receiving the appeal, FEMA provides its appeal decision simultaneously to the recipient and applicant.[75] In cases where FEMA has requested information or technical review, it will issue the response within 90 days of receiving the information (or within 90 days of the expiration of the deadline to respond) or the technical review recommendations.[76]

For second appeals, all decisions represent the Agency's final administrative decision on the matter.[77] Additionally, if an applicant does not appeal an eligibility determination or first appeal decision by the deadline, the respective decision represents the Agency's final administrative decision.[78]

I. Arbitration

Applicants also have the option to submit a request for arbitration if all the following apply:[79]

- The amount in dispute[80] is greater than $500,000, or greater than $100,000 for an applicant requesting assistance in a rural area[81];
- The applicant and recipient submitted a first appeal to FEMA by the first appeal deadline;[82] and
- FEMA denied the first appeal or did not issue a decision within 180 days of receiving the appeal.

Applicants request arbitration by emailing the recipient, Civilian Board of Contract Appeals (CBCA), and FEMA simultaneously.[83] Applicants must file a request for arbitration within 60 calendar days from the date FEMA transmits its first appeal decision. If FEMA has not rendered a first appeal decision within 180 calendar days of receiving the appeal, applicants can request arbitration instead. Applicants must withdraw their first appeal and then submit a request for arbitration to the recipient, CBCA, and FEMA within 30 days of the withdrawal.

Applicants may submit a second appeal or a request for arbitration, but not both.[84] When applicants request arbitration in lieu of appeal, the CBCA decision constitutes the final decision.

The CBCA arbitrates at no cost to the parties. However, each party is directly responsible for all other expenses it incurs in the arbitration process.[85] This includes, but is not limited to, attorney's fees, representative fees, copying costs, and costs associated with attending hearings. These costs are not eligible for FEMA funding.

[75] 44 C.F.R. § 206.206(b)(1)(ii)(C) and (b)(2)(ii)(C).
[76] 44 C.F.R. § 206.206(b)(1)(ii) and (iii) and (b)(2)(ii) and (iii).
[77] 44 C.F.R. § 206.206(c).
[78] 44 C.F.R. § 206.206(a).
[79] 44 C.F.R. § 206.206(b)(3).
[80] 44 C.F.R. § 206.206(a).
[81] 44 C.F.R. § 206.206(a).
[82] 44 C.F.R. § 206.206(b)(1)(ii).
[83] 44 C.F.R. § 206.206(b)(3)(iii)(A).
[84] 44 C.F.R. § 206.206(b)(3)(ii).
[85] For more information, refer to: *Public Assistance Appeals and Arbitration* (FP 104-22-0001) and *PA Arbitration Fact Sheet*.

Chapter 3: Applying for Public Assistance and Applicant Eligibility

This chapter defines the process to request assistance for PA, starting with the request for public assistance (RPA). It provides information relating to organizations that can benefit from the Public Assistance (PA) Program, requirements to substantiate eligibility, and important steps that take place following a presidential declaration. The "Public Assistance Program Delivery Guide"[86] provides an overview of these process steps.

I. Applicant Eligibility

FEMA provides assistance to eligible applicants, which are defined below. As shown in Figure 3. Applicant Eligibility, FEMA must first determine whether an applicant is eligible before evaluating the applicant's claim. FEMA and the recipient review the RPA to determine whether an applicant is eligible for assistance.[87] This section provides FEMA's policy on applicant eligibility.

There are two types of applicants that may apply for the PA Program:

- State, local, Tribal Nation, and territorial (SLTT) entities;[88] and,
- Private nonprofit (PNP) organizations, including houses of worship and other faith-based organizations.[89]

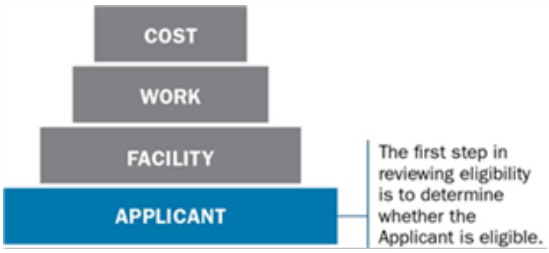


Figure 3. Applicant Eligibility

II. Applicant Briefing

As soon as possible following the president's declaration, a recipient conducts briefings for all potential applicants. Recipients are responsible for notifying potential applicants of the date, time, and location of the applicant briefing.[90]

III. Request for Public Assistance

The RPA[91] is an application for the PA Program. If an SLTT government entity or PNP wishes to request reimbursement for costs related to damage and impacts from a presidential declaration, it must submit an RPA to FEMA via PA Grants Portal within 30 days after the respective area is designated.[92] Recipients must also submit an RPA to be eligible to request funding through the PA Program. Once an RPA is approved, the SLTT government entity or PNP becomes an applicant and is eligible to submit projects to request funding.

[86] For more information, refer to: *Public Assistance Program Delivery Guide*.
[87] 44 Code of Federal Regulations (C.F.R.) § 206.207(b)(1)(iii)(C).
[88] See Applicant Eligibility: State, Local, Tribal, and Territorial Government Entities in this chapter for additional information on eligibility criteria.
[89] See Applicant Eligibility: Private Nonprofit Organizations in this chapter for additional information on eligibility criteria.
[90] 44 C.F.R.§ 206.207(b)(1)(iii)(B).
[91] For more information, refer to: How to Apply for Public Assistance | fema.gov.
[92] 44 C.F.R. § 206.202(c).

FEMA extends the deadline for submitting an RPA if a recipient submits a request in writing with justification based on extenuating circumstances beyond an applicant's or recipient's control. The following are examples of extenuating circumstances that FEMA considers to be beyond an applicant's or recipient's control:[93]

- The applicant is only claiming categories of work that were not authorized for the respective area in the initial declaration.
- Delays were due to slow responses or other issues caused by FEMA.
- FEMA's Grants Portal was offline or otherwise unavailable on the date the applicant tried to submit the RPA and it was the same day as the deadline.
- Communication systems were down for such an extended time period that applicants in the area were unable to receive or send information.

The recipient reviews each RPA to determine if the entity meets the criteria of an eligible applicant, provides an assessment of the applicant's risk of noncompliance as required by 2 C.F.R. § 200.332(c), and recommends whether FEMA should approve the RPA.

IV. Applicant Eligibility: State, Local, Tribal Nation, and Territorial Government Entities

A. State and Territorial Governments

State and territorial governments, including the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands, are eligible applicants. This includes any agency or instrumentality thereof, exclusive of local governments.[94] The state or territorial government designates one of its agencies (usually the emergency management agency) as the recipient. The recipient serves as the pass-through entity to the other agencies, which are subrecipients.



Terminology

Pass-through entity - A non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

Subaward - An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program.

B. Tribal Nations

Federally recognized Indian Tribal Nations, including Alaska Native villages and organizations, are eligible applicants. A searchable list of federally recognized Tribal Nations is available through the Bureau of Indian

[93] 44 C.F.R. § 206.202(f)(2).
[94] Stafford Act § 102(4); 42 United States Code (U.S.C.) § 5122; 44 C.F.R. §§ 206.2(a)(22) and 206.222(a); 2 C.F.R. § 200.1.

Affairs (BIA).[95] Alaska Native Corporations are ineligible to apply for assistance as they are privately owned.[96] When a federally recognized Tribal Nation receives a presidential emergency or major disaster declaration, they do not need to designate a separate department or agency to act as the recipient.

While state recognized Tribal Nations that are not federally recognized cannot request a presidential declaration, they are eligible to receive PA, as are heritage groups.

C. Local Governments

The following types of local governments are eligible applicants:[97]

- Counties and parishes;
- Municipalities, cities, towns, boroughs, and townships;
- Local public authorities;
- School districts;
- Intrastate districts;
- Councils of governments (regardless of whether incorporated as nonprofit corporations under state law);
- Regional and interstate government entities;
- Agencies or instrumentalities of local governments;
- State recognized Tribal Nations; and,
- Special districts established under state law.
    - Community development districts are special districts that finance, plan, establish, acquire, construct, or reconstruct, operate, and maintain systems, facilities, and basic infrastructure within their community development. The district must own and be legally responsible for maintenance, and operation of an eligible facility that is open to and serves the general public.[98] Community development districts generally meet the requirement of serving the public based on the same criteria used for PNPs under Applicant Eligibility: Private Nonprofit Organizations in this chapter.

The state or a political subdivision of the state may submit applications on behalf of rural communities, unincorporated towns or villages, and other public entities not listed above.[99]

V. Applicant Eligibility: Private Nonprofit Organizations

FEMA evaluates a PNP's organization status, and the services provided in each facility owned or operated by the PNP to determine whether it is eligible.

[95] For more information, refer to: Tribal Leader Directory | geoplatform.gov.
[96] Stafford Act § 102(6); 42 U.S.C. § 5122; 44 C.F.R. §§ 206.201(i) and 206.222(c); 2 C.F.R. § 200.1.
[97] Stafford Act § 102(8); 42 U.S.C. § 5122; 44 C.F.R. §§ 206.2(a)(16) and 206.222(a); 2 C.F.R. § 200.1(h).
[98] Community Development Districts generally meet the requirement of serving the public based on the same criteria used for PNPs in Chapter 3.V: Applicant Eligibility: Private Nonprofit Organizations.
[99] Stafford Act § 102(8)(c); 42 U.S.C. § 5122; 44 C.F.R. § 206.2(a)(16)(iii).

To be eligible, a PNP must have been an established PNP organization,[100] have owned or operated an eligible PNP facility at the time of the incident period, and ensured that the facility is one that provides an eligible service, which is categorized as either (1) critical services, or (2) noncritical, but essential social services (see Figure 4. PNP Eligibility).[101] All three criteria must be met to be an eligible applicant.



Figure 4. PNP Eligibility

A. Organization Eligibility

For an organization to demonstrate its qualifications as a PNP, it must provide a ruling letter from the U.S. Internal Revenue Service that was in effect as of the declaration date and granted tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code; or documentation from the state substantiating it is a non-revenue producing, nonprofit entity organized or doing business under state law.[102] For a list of documentation needed to demonstrate these requirements, see Table 6. Required Documentation and Information for PNP RPA.

If the organization is not required to obtain 501(c)(3) status or tax-exempt status under applicable state law, it must provide articles of association, bylaws, or other documents indicating that it is an organized entity, and a certification that it is compliant with Internal Revenue Code section 501(c)(3) and state law requirements.

B. For-Profit Entities

For-profit entities are not eligible applicants for assistance from FEMA under the PA Program. However, SLTT government entities may contract with private entities, including for-profit entities, to carry out eligible emergency protective measures. In these cases, FEMA will reimburse the eligible applicant for the cost of eligible work, and the applicant may then compensate the private entity for the provision of goods or services.

C. Facility Eligibility

Prior to determining whether a PNP is an eligible applicant, FEMA must first determine whether the PNP owns or operates an eligible facility that provides an eligible service.

A facility owned or operated by a PNP that provides a critical service defined as education, utility, emergency, or emergency medical care is eligible (see Table 3. PNP Eligible Critical Services). Administrative and support facilities essential to the provision of a PNP critical service are also eligible facilities. Administrative and support facilities may include, but are not limited to laundry facilities, kitchens, dining areas, dormitories,

[100] 44 C.F.R. § 206.221(f).
[101] 44 C.F.R. § 206.222(b).
[102] 44 C.F.R. § 206.221(f).

storage, record keeping areas, parking lots, access roads or bridges, administrative offices, school gyms, and school playgrounds.

A facility owned or operated by a PNP that provides a noncritical, but essential social service and provides those services to the general public is eligible (see Table 4. PNP Eligible Noncritical, Essential Social Services). PNP facilities meet the requirement of serving the general public if all the following conditions are met:

- Facility use is not limited to any of the following:
  - A certain number of individuals;
  - A defined group of individuals who have a financial interest in the facility, such as a condominium association;
  - Certain classes of individuals; or
  - An unreasonably restrictive geographical area, such as a neighborhood within a community.
- Facility access is not limited to a specific population (such as facilities with gates or other security systems intended to restrict public access); and,
- Any membership fees meet all of the following criteria:
  - Are nominal;
  - Are waived when an individual can show inability to pay the fee;
  - Are not of such magnitude to preclude use by a significant portion of the community; and,
  - Do not exceed what is appropriate based on other facilities used for similar services.

In cases where a PNP is leasing a facility to another entity that is providing eligible PNP services, FEMA reviews any fees the lessee charges individuals for the services. FEMA does not review the cost of the lease to determine if the facility is serving the general public.

Certain types of facilities that restrict access in a manner clearly related to the nature of the facility, such as senior centers, center-based childcare, custodial care, rehabilitation, or educational facilities; or houses of worship (HOW) that limit membership in the organization to individuals who share a religious faith or practice, are still considered to provide essential social services to the general public.

Terminology

The Stafford Act references both rehabilitational facilities and rehabilitation facilities.

- **Rehabilitational facilities** are those that provide social services or counseling support for drug or alcohol dependency treatments.
- **Rehabilitation facilities** are those that provide rehabilitation services after physical injury.

Facilities established or primarily used for political, athletic, or recreational activities, vocational, conferences, retreats, or similar activities are ineligible for PA funding (see Table 5. PNP Ineligible Services).

PNPs that own or operate facilities that only provide noncritical services must also apply for a disaster loan for facility restoration from the U.S. Small Business Administration (SBA) (see Small Business Administration Loan Requirement in this chapter).

D. Multiple Facilities

If a PNP operates multiple facilities, or a single facility composed of more than one building, FEMA must evaluate each building independently, even if all are located on the same grounds. Structures that are part of a complex that includes outdoor facilities (e.g., swimming pools, athletic fields, or tennis courts) are not evaluated separately from the rest of the complex when determining eligibility of the building. Support facilities are evaluated based on the purpose of the facility they support. See Appendix E: Private Nonprofit Facility Eligibility Examples for examples of PNP facilities and corresponding eligibility determinations.

E. Mixed-Use Facility

Eligibility for PNP facilities that provide multiple services (mixed-use facilities) is dependent on the primary use of the facility. Primary use is determined by the amount of physical space dedicated to eligible versus ineligible services. Primary use is the use for which more than 50 percent of the physical space in the facility is dedicated. FEMA evaluates the entire structure when determining primary use; it does not separately address individual areas, such as floors, basements, or wings. Common space, such as bathrooms, hallways, lobbies, closets, stairways, and elevators are not included when calculating mixed-use space.

If FEMA determines that 50 percent or more of physical space is dedicated to ineligible services, the entire facility is ineligible. If the facility is eligible, FEMA prorates funding based on the percentage of physical space dedicated to eligible services. Depending on the specifics of the scenario, FEMA either prorates funding for debris removal and emergency protective measures or limits such funding to what is eligible, necessary, and reasonable. The applicant is responsible for the balance of restoration costs and must restore the entire facility to receive funding for repairs to the eligible-use portions of the facility.

Eligible PNP irrigation and PNP public broadcasting facilities are exempt from primary use requirements. For PNP irrigation facilities, FEMA will evaluate whether the facility was designed to provide eligible irrigation and whether it has ever been used for that purpose. If the facility was not designed for an eligible irrigation purpose, and has never been utilized for that purpose, it is not eligible.

F. Mixed-Use Space

In cases where a single PNP facility provides both critical and eligible non-critical services, FEMA does not perform a calculation to determine whether the primary use is for critical or non-critical services. FEMA only performs this calculation to determine whether a facility is primarily used for eligible services.

See Appendix E: Private Nonprofit Facility Eligibility Examples for examples of PNP facilities and corresponding eligibility determinations.

In cases where the same physical space is used for both eligible and ineligible services, the primary use is the use for which more than 50 percent of the operating time is dedicated in that shared physical space. If

space is available for use, but the applicant cannot support that it is used for eligible services for more than 50 of the percent of the operating time, this criterion is not met.

If FEMA determines that 50 percent or more of the operating time in the shared physical space is dedicated to ineligible services, then FEMA does not include that physical space when evaluating primary use.

G. Multiple Services

In cases where the facility provides multiple services, such as a community center, FEMA reviews additional items to determine the primary service that facility provides, such as:

- U.S. Internal Revenue Service documentation;
- Pre-disaster charter, bylaws, and amendments; and,
- Evidence of longstanding, routine (day-to-day) use (e.g., a calendar of activities).

H. Use by Multiple Entities

In cases where a PNP shares use of a facility, the facility is only eligible if it is primarily owned by the PNP applicant. FEMA prorates funding for these facilities based on the percentage of physical space that the applicant owns and dedicates to eligible services. The following guidelines are used to determine the eligibility of such facilities:

- If the eligible PNP owns the entire facility and leases a portion of it to another entity, the facility is eligible provided that the PNP dedicates more than 50 percent of the facility for eligible services. If the PNP leases 50 percent or more of the facility to an ineligible applicant, or for ineligible services, then the facility is ineligible.
- If the eligible PNP only owns a portion of the facility, it is eligible provided that the PNP owns more than 50 percent of the facility and dedicates more than 50 percent of physical space for eligible services.

I. Leased Facilities

If an eligible PNP leases a facility to another eligible PNP that provides an eligible service in that facility, the facility is eligible. Even though the lessee does not own the facility, it may be the eligible applicant because it operates the facility. Whichever PNP (the owner or the lessee) has the legal responsibility to maintain the facility is the eligible applicant.

J. Small Business Administration Loan Requirement

Following a major disaster declaration, the SBA provides loans to individuals and businesses for facility restoration.[103] For PNPs with facilities that provide noncritical, essential social services, FEMA provides PA funding for eligible debris removal and emergency protective measures associated with the eligible facilities. However, FEMA only provides funding for permanent work costs that an SBA loan will not cover. Therefore, PNPs that do not provide any critical services must also apply for a disaster loan from the SBA[104] and receive a determination for permanent work on facilities that:

[103] For more information, refer to: Small Business Administration | sba.gov. For additional assistance with the application process, applicants should contact the SBA Disaster Customer Service Center at 1-800-659-2955.
[104] Stafford Act § 406(a)(3)(A)(ii); 44 C.F.R. § 206.226(c)(2).

- Provide noncritical services; or
- Are mixed-use facilities and the damaged portion of the facility provides services that are entirely noncritical.

PNPs do not need to apply for an SBA loan for any facilities that provide critical services (even if the facility also provides non-critical services).

Table 2. SBA Loan Requirements

Type of Services Provided	Emergency Work	Permanent Work
Critical Services	SBA loan application **not** required	SBA loan application **not** required
Non-critical but Essential Social Services	SBA loan application **not** required	SBA loan application **is** required

FEMA and SBA cannot provide disaster assistance funding that duplicates insurance proceeds. Applicants must pursue claims to recover insurance proceeds that they are entitled to receive from their insurer(s).

1. SMALL BUSINESS LOAN ELIGIBILITY

SBA disaster loans are available up to $2 million to qualified businesses and most private nonprofit organizations. SBA loans cover disaster losses not fully covered by insurance or other sources. If an applicant is required to apply insurance proceeds to an outstanding mortgage on the damaged property, that amount can be included in the disaster loan application. Any proceeds from insurance coverage on business property may be deducted from the eligible loan amount.

SBA disaster loan funds may not be used to upgrade or expand a business, except as required by building codes. Mitigation assistance to make improvements that help reduce the risk of future property damage caused by a disaster is available up to a 20 percent loan amount increase above the facilities damage, if approved by the SBA.

Both FEMA and the SBA have application deadlines. Applying to both agencies as soon as possible ensures meeting both application deadlines. If the PNP misses the SBA application deadline, including any SBA approved extension, permanent work is ineligible for PA funding. If the PNP declines an SBA loan, PA funding is limited to the costs that the loan would not have otherwise covered. This applies even when the PNP cannot accept the terms of the loan by, for example not meeting a collateral requirement, and the SBA therefore denies the loan. Possible outcomes are shown in Figure 5. SBA Loan Outcomes.

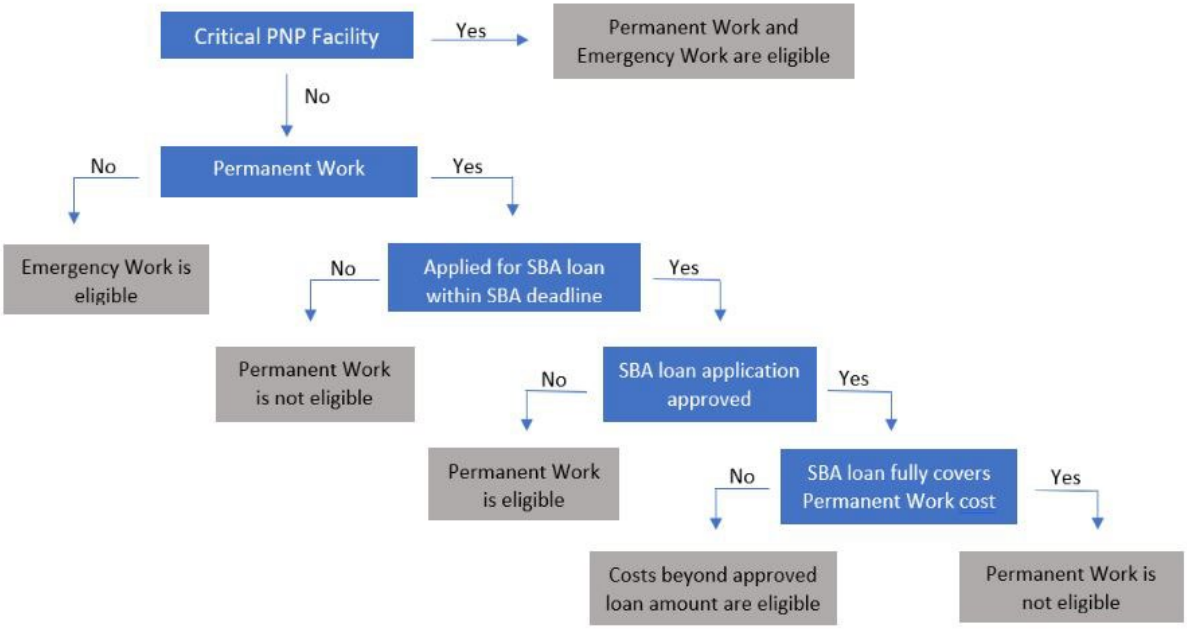


Figure 5. SBA Loan Outcomes

K. Private Nonprofit Services

Facilities that provide critical services or noncritical but essential social services that are provided to the general public are eligible for assistance. Please see Table 3. PNP Eligible Critical Services, Table 4. PNP Eligible Noncritical, Essential Social Services, Table 5. PNP Ineligible Services, and Table 6. Required Documentation and Information for PNP RPA.

Table 3. PNP Eligible Critical Services

Type	Critical Services - Activities and Establishments
Education	▪ Primary or secondary education as determined under state law; OR ▪ Higher-education institutions that meet all of the following criteria: ○ Admit students or persons having a high school diploma or equivalent; ○ Are legally authorized to provide education beyond a secondary level; ○ Award a bachelor's degree or 2-year degree that is acceptable as full credit toward a bachelor's degree or provides at least a 1-year training program to prepare students for gainful employment in a recognized occupation; and, ○ Are accredited by a nationally recognized agency or association (as determined by the Secretary of Education). ▪ Educational facilities that meet the above criteria are eligible without regard to religious character or use for religious instruction.

Type	Critical Services - Activities and Establishments
Emergency Medical	▪ Medical care (diagnosis or treatment of mental or physical injury or disease). These types of services are often provided in: ○ Clinics; ○ Dialysis facilities; ○ Facilities that provide in-patient care for convalescent or chronic disease patients; ○ Hospices and nursing homes; ○ Hospitals and related facilities, including: - Central service facilities operated in connection with hospitals; - Extended-care facilities; - Facilities related to programs for home-health services; - Laboratories; - Self-care units; and, - Storage, administration, and record areas ○ Long-term care facilities; ○ Outpatient facilities; and, ○ Rehabilitation centers.
Utility	▪ Communications transmission and switching, and distribution of telecommunications traffic; ▪ Electric power generation, transmission, and distribution;[105] ▪ Irrigation to provide water for drinking water supply, fire suppression, or electricity generation; ▪ Sewer and wastewater collection, transmission, and treatment; and, ▪ Water treatment, transmission, and distribution by a water company supplying municipal water.
Emergency Services	▪ Ambulance; ▪ Fire protection; ▪ Rescue; and, ▪ Public broadcasting that monitors, receives, and distributes communication from the Emergency Alert System to the public.

[105] FEMA encourages restoration of these facilities with the use of low-carbon power generation sources.

Table 4. PNP Eligible Noncritical, Essential Social Services[106]

Type	Noncritical, Essential Social Services – Activities and Establishments
Community centers or other facilities established and primarily used for similar services	▪ Art services authorized by a SLTT government, including, but not limited to: arts administration, art classes, management of public arts festivals, and performing arts classes; ▪ Educational enrichment activities; ▪ Multi-purpose arts programming; ▪ Senior citizen projects, rehabilitation programs, community clean-up projects, blood drives, local government meetings, and similar activities; ▪ Services and activities intended to provide support for vulnerable communities, provided the facility is otherwise available to the public on a non-discriminatory basis; ▪ Social activities to pursue items of mutual interest or concern, such as: community board meetings, neighborhood barbecues, various social functions of community groups, and youth and senior citizen group meetings; and, ▪ Performing arts centers with a primary purpose of producing, facilitating, or presenting live performances, including: construction of production materials, creation of artistic works or productions, design, professional training, public education, and rehearsals.
Facilities that do not provide medical care, but provide related services	▪ Alcohol and drug treatment and other rehabilitation services; ▪ Assisted living; ▪ Custodial care, even if the service is not provided to the general public (including essential administration and support facilities); ▪ Center-based childcare, even if not provided to the public; ▪ Day care for individuals with disabilities or access and functional needs (for example, those with Alzheimer's disease, autism, muscular dystrophy); ▪ Food assistance programs, including food banks and storage of food for food programs; ▪ Health and safety services, including animal control services; ▪ Low-income housing (as defined by federal or SLTT law or regulation); ▪ Religious instruction; ▪ Residential and other services for families of domestic abuse; ▪ Residential services for individuals with disabilities; and, ▪ Shelter workshops that create products using the skills of individuals with disabilities.

[106] With exception of custodial care facilities and museums, administrative and support facilities essential to the provision of PNP noncritical service are ineligible facilities.

Type	Noncritical, Essential Social Services – Activities and Establishments
Facilities providing other noncritical, essential social services	▪ Homeless shelters; ▪ Houses of worship and faith-based organizations (e.g., churches, synagogues, mosques, and temples); ▪ Libraries; ▪ Museums; ○ Constructed, manufactured, or converted with a primary purpose of preserving and exhibiting a documented collection of artistic, historic, scientific, or other objects; ○ Buildings, associated facilities, fixed facilities, and equipment primarily used for the preservation or exhibition of the collection, including: ○ Permanent infrastructure, such as walkways and driveways of outdoor museum-type exhibition areas; ○ Historic buildings, such as barns and other outbuildings, intended for the preservation and exhibition of historical artifacts within a defined area; ○ Permanent facilities and equipment that are part of arboretums and botanical gardens; ○ Infrastructure, such as utilities, and administrative facilities necessary for support; ○ Senior citizen centers; and, ○ Zoos.

Table 5. PNP Ineligible Services

Private Nonprofit Ineligible Services
▪ Community meetings or activities for only a brief period, or at irregular intervals; ▪ Athletic training; ▪ Political education and activities; ▪ Advocacy or lobbying groups not directly providing health services; ▪ Conferences; ▪ Flood control (e.g., levees, berms, dunes) not under the legal responsibility of a PNP; ▪ Land reclamation; ▪ Irrigation solely for agricultural purposes;[107] ▪ Day care services not included in previous table of eligible services; ▪ Job counseling; ▪ Public housing, other than low-income housing; ▪ Recreation; ▪ Residential services not included in previous table of eligible services (e.g., cabins or other overnight accommodations); ▪ Cemeteries; ▪ Docks, piers; ▪ Camps; ▪ Retreats; ▪ Grounds at museums and historic sites; and, ▪ Open natural areas or features, or facilities that promote the preservation or conservation of such areas.

Table 6. Required Documentation and Information for PNP RPA

Type	Required Documentation and Information for PNP RPA
All PNP Applicants	▪ A ruling letter from the Internal Revenue Service that was in effect on the declaration date and granted tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code; or ▪ Documentation from the state substantiating it is a non-revenue producing, nonprofit entity organized or doing business under state law; or ▪ If exempt from both the requirement to apply for 501(c)(3) status and tax-exempt status under state law, the organization must provide articles of association, bylaws, or other documents indicating that it is an organized entity and a certification that it is compliant with Internal Revenue Code section 501(c)(3) and state law requirements.

[107] 44 C.F.R. § 206.221(e)(3).

Type	Required Documentation and Information for PNP RPA
Legal Responsibility	▪ If the applicant owns the damaged facility, proof of ownership (e.g., deed, title, bill of sale or land contract, reoccurring mortgage payments or booklet, property tax receipt or property tax bill, or a real property structure insurance policy). ▪ If the applicant leases the damaged facility, proof of legal responsibility to repair the incident-related damage (e.g., lease contract/agreement).
Services	▪ List of services provided in the damaged facility, when, and to whom.
Membership Organization	▪ Who is allowed membership; ▪ Fee policy or description of fees charged; and, ▪ Policy regarding waiving memberships.
Child Care Facility	▪ Proof that the State Department of Children and Family Services, Department of Human Services, or similar agency, recognizes it as a licensed childcare facility.
Education	▪ Proof that the school is accredited or recognized by the State Department of Education. State regulations for private schools vary and some states do not require accreditation. A PNP school must demonstrate that it is recognized by the state as providing elementary or secondary education. Depending on state requirements, documentation may include, but is not limited to, the following: ▪ Accreditation documents; ▪ Certification from the State Department of Education that the applicant operated the facility as a PNP school at the time of the incident; ▪ Documentation demonstrating compliance with the state's compulsory attendance laws; ▪ School-year calendar; ▪ School budget; ▪ Number of students and faculty; ▪ Complete list of educational instruction property and equipment owned by the PNP; ▪ Tax records; ▪ Documents reflecting school curriculum, transcripts, health and safety, or code of conduct; ▪ Tuition receipts; ▪ Financial statements; ▪ Commencement documents; ▪ Inclusion in the U.S. Department of Education's National Center for Education Statistics Private School Universe Survey data;[108] and, ▪ State Department of Education electronic and paper homeschool declaration or registration forms.

[108] For more information, refer to: The Private School Universe Survey electronic search tool.

Type	Required Documentation and Information for PNP RPA
Mixed-Use Facility	▪ Proof of the established purpose of the facility with documentation, such as: ○ U.S. Internal Revenue Service documentation; ○ Pre-incident charter, bylaws, and amendments; or ○ Evidence of longstanding, routine (day-to-day) use (e.g., a calendar of activities).

Chapter 4: General Facility and Work Eligibility

FEMA processes PA grant funding according to the type of work an applicant undertakes. For work to be eligible, it must be required as a result of the declared incident, be located in the designated area, be the legal responsibility of the applicant, and be undertaken at a reasonable cost. This chapter provides important information relating to PA facility eligibility and general requirements for work to be eligible.

I. Facility Eligibility

In general, a facility must be determined eligible for work to be eligible. There are exceptions for some emergency protective measures as shown in Figure 6. Facility Eligibility and discussed in Chapter 7: Emergency Work Eligibility.

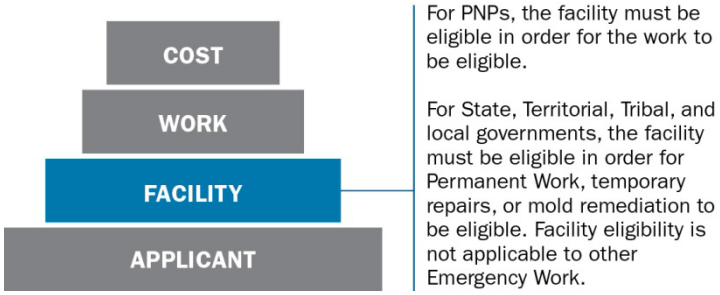


Figure 6. Facility Eligibility

A. Public Facility

An eligible public facility is one that a state, local, Tribal Nation, or territorial (SLTT) government owns or has legal responsibility for maintaining. A facility includes any:

- System including flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, or watershed development;[109]
- Building, such as maintenance and storage sheds, restroom facilities, bath houses, or outbuildings including ancillary facilities;
- Non-federal-aid street, road, or highway;[110] ramps, or access roads[111];
- Public buildings, structure, or system, including those used for educational, recreational, or cultural purposes;
- Airport facility[112] including runways;
- Park[113] including piers, docks, trails, benches, picnic tables, swimming pools, golf courses, or ball fields; or
- Other public facilities including pumping stations, communication towers and antennas, contents, supplies, equipment, vehicles, fences, parking lots, stairs, signage, lighting, sidewalks, gutters, ditches, guard rails, integral ground, catch basins, or outfall structures.

A natural feature is improved and maintained if it meets all of the following conditions:

[109] Stafford Act § 102(10); 42 United States Code (U.S.C.) 5122; 44 Code of Federal Regulations (C.F.R.) § 206.221(h).
[110] Ibid.
[111] BIA roads are an exception but must meet certain criteria.
[112] Stafford Act § 102(10); 42 U.S.C. 5122; 44 C.F.R. § 206.221(h).
[113] Ibid.

- The natural feature has a designed and constructed improvement to its natural characteristics, such as a terraced slope or realigned channel;
- The constructed improvement enhances the function of the unimproved natural feature; and,
- The applicant maintains the improvement on a regular schedule to ensure that the improvement performs as designed.

Only the section of a natural feature that meets the criteria above is eligible. For example, if only 150 linear feet of a natural channel bank is armored with rip rap and maintained, the eligible facility would be limited to that 150-linear-foot section. Nature-based solutions that incorporate sustainable planning, design, environmental management, or engineering practices that meet the criteria for natural features and promote adaptation and resilience are eligible.

The following are ineligible facilities:

- Unimproved property that is not enhanced or maintained (e.g., a hillside or slope, forest, or natural channel bank); and,
- Land used for agricultural purposes.[114]

When a facility maintained by a community development district is not open to the general public or does not provide a service to the general public, the facility is ineligible.

B. Inactive or Partially Inactive Facility

To be eligible, a facility must have been in active use at the start of the incident period. Inactive or partially inactive facilities are ineligible, unless one of the following conditions is met:

- The facility was only temporarily inactive for repairs or remodeling (provided a contractor is not responsible for the repair of disaster-related damage);
- The applicant established future active use in an approved budget or plans; or
- The applicant can clearly demonstrate its intent to begin use within a reasonable amount of time.[115]

For facilities that are partially occupied and therefore partially inactive at the start of the incident, the inactive portions would not be eligible unless one of the above stated conditions apply. In all cases, the facility in question must have been eligible for assistance during the time it was in use. When the eligible repairs would benefit a non-active area, the assistance will be prorated according to the percentage of the facility that was in active use. For example, if the roof of a partially used building is destroyed, FEMA limits the eligible cost to a prorated amount of the total cost to replace the roof based on the percentage of the building that was in active use.

For private nonprofit (PNP) mixed-use facilities to be eligible, more than 50 percent of the facility had to be in active use for an eligible purpose at the time of the incident.

[114] 44 C.F.R. § 206.221(d).
[115] 44 C.F.R. § 206.226(k)(2).

C. Facility Scheduled for Repair or Replacement

Facilities that are not yet under contract but are scheduled for repair or replacement using non-federal funds are eligible provided that the claimed damage did not exist prior to the incident (FEMA reviews procurement and contract documents to validate). If damage existed prior to the incident, only the repair of damage caused by the incident is eligible.

II. General Work Eligibility

Through the PA Program, FEMA provides grant funding for:

- Debris removal (emergency work);
- Emergency protective measures (emergency work);
- Permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the facilities from future damage (permanent work); and,
- Building code and floodplain management administration and enforcement activities (permanent work).

If an entity does not comply with all applicable statutes, executive orders (EOs), regulations, and policies, FEMA may take one of several actions including disallowing all or part of the cost of the project not in compliance.[116]

A. Emergency Work vs. Permanent Work

Emergency work addresses an immediate threat. Permanent work includes the restoration of a damaged facility or building code and floodplain management administration and enforcement activities. To facilitate the processing of PA funding, FEMA further separates both emergency work and permanent work into categories. These categories are shown in Figure 7. Categories of Work.

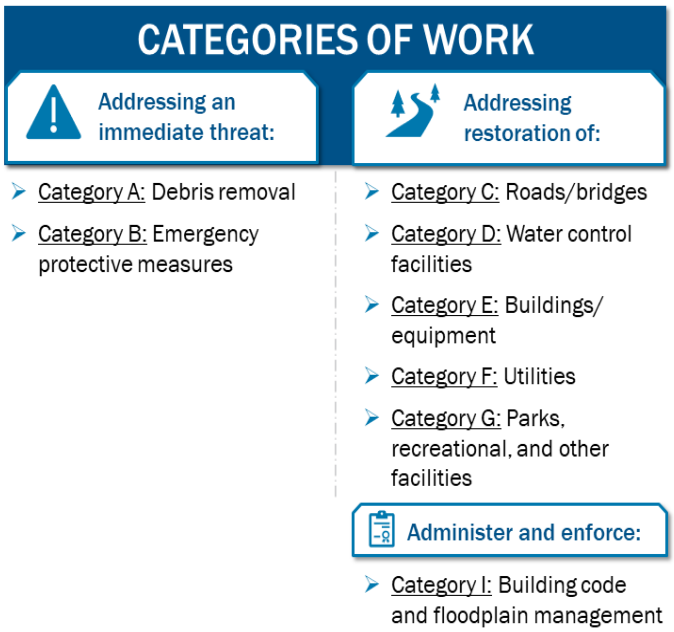


Figure 7. Categories of Work

B. Minimum Work Eligibility Criteria

At a minimum, work must meet each of the following three general criteria to be eligible:

- Be required as a result of the declared incident;
- Be located within the declared area; and,

[116] 2 C.F.R. § 200.339.

- Be the legal responsibility of an eligible applicant.[117]

Work eligibility is discussed in detail in Chapter 7: Emergency Work Eligibility and Chapter 8: Permanent Work Eligibility (Categories C-G).

1. RESULT OF DECLARED INCIDENT

Applicants must be able to demonstrate that any claimed impacts and damage occurred during the declared incident period, were caused directly by the declared incident, and that the work claimed is required to address the incident-related impacts and damage as follows:

- For debris removal, applicants must be able to demonstrate that the debris claimed was generated by the declared incident, during the declared incident period, and that removal of the debris addresses an immediate threat resulting from the declared incident.
- For emergency protective measures, applicants must be able to demonstrate that the work addresses an immediate threat resulting from the declared incident.
- For permanent work, temporary repairs, and mold remediation, applicants must demonstrate that the work addresses damage caused by the declared incident.

Applicants must clearly define impacts and damage caused by the declared incident and separate them from any impacts or damage not caused by the declared incident. Applicants must also separate any work or costs associated with addressing impacts or damage not caused by the declared incident.

Examples: Impacts or Damage Not Caused by the Declared Incident

Examples of impacts or damage not caused by the declared incident include:

- Previously existing damage or debris;
- Impacts or damage resulting from a different incident even if it occurred during the incident period of the declared incident;
- Impacts or damage that occur after the incident period and prior to conducting incident-related repairs;
- Deterioration (wear and tear);
- Deferred maintenance;
- Impacts or damage due to failure to take measures to protect a facility from further damage in a timely manner; or
- Impacts or damage due to negligence.[118]

[117] 44 C.F.R. § 206.223(a).
[118] 44 C.F.R. § 206.223(e).

i. Documentation and Information to Support Cause of Impacts and Damage

Table 7. Documentation and Information to Support Cause of Impacts and Damage

For Small Projects	For Large Projects
▪ Applicants must certify, in lieu of providing documentation, to the following: ○ Debris removal: The debris was generated by the declared incident, during the declared incident period, and that removal of the debris addresses an immediate threat resulting from the declared incident; ○ Emergency protective measures: The immediate threat resulted from the declared incident; and, ○ Permanent work: The damage was caused directly by the declared incident and did not result from a lack of maintenance.	▪ If necessary to validate that the impacts or damage was caused by the declared event, applicants will be required to provide: ○ Pre-incident photographs and/or video of the impacted site or facility; and/or, ○ Documentation supporting pre-disaster condition of the facility (e.g., facility maintenance records or inspection/safety reports).

Not every large project requires documentation to substantiate the impacts and damage caused by the event. Frequently, during site inspections, it is evident that the claimed damage, as explained by the applicant, is a direct result of the specific event, as indicated by the effects of the event in the vicinity of the damage. In such instances, the applicant is not required to furnish pre-incident images, records of maintenance, or reports on inspections and safety measures. For instance, in scenarios where an entire bridge or section of road is washed away during flooding or a building is consumed by fire, there is no requirement for maintenance records to validate that the incident caused the damage. This applies even if there are signs that the bridge or road surface had not been consistently maintained (e.g., visible fatigue cracks on the road surface in nearby sections). In these cases, maintenance records are not needed to support the overall failure caused by the event when it is evident that the disaster caused the damage due to the structure being completely destroyed as a result of the incident.

Certain project types (e.g., the restoration of well-maintained natural features and beaches) do mandate the submission of maintenance records and/or photographs. These requirements are elaborated upon in subsequent sections of this document.

If a facility was functioning prior to the disaster and the disaster caused damage that rendered the facility non-functional, the facility may be eligible, provided the pre-disaster condition was not a significant contributing factor in the cause of failure.

ii. Protecting Tribal Sensitive Locations

Each Tribal Nation is unique, with cultures and governments deeply rooted in their history, customs, and sacred sites. FEMA recognizes the importance of protecting these locations for several reasons. First, many sensitive tribal locations are sacred. Non-tribal members sharing information about or accessing these locations may be seen as disrespectful or a violation of tribal and/or federal law. Protecting the sanctity of

these sites is essential to maintaining the religious, cultural, and governmental integrity of the Tribal Nation.[119] Some Tribal Nations utilize sensitive tribal locations not only for ceremonial activities, but also as vital locations to execute governmental functions, such as selecting their next leaders or making final decisions on complex matters that will impact their Nation for generations to come.

Second, pottery, jewelry, regalia, clothing, weapons, sacred objects, and even human remains found on tribal lands have been historically (and continue to be) targeted by individuals looking to collect or sell them.[120] These items must be protected before, during, and after disasters. They are integral to the identity, spirituality, and governing bodies of tribal communities. Protecting these resources is about preserving the sanctity and reverence of the Tribal Nation's culture and their sovereignty as a government. Despite the efforts of federal agencies to protect these invaluable resources, there are individuals who continue to engage in illegal activities, such as theft and damage, with devastating effects on Tribal Nations and their communities.

Finally, protecting tribal sensitive locations is a fundamental responsibility. It is an affirmation of the respect and recognition of the unique cultures, traditions, practices, and government autonomy of Tribal Nations. These locations are the living repositories of Tribal Nations and Alaska Native heritage and vital to supporting tribal government functions. Safeguarding them is a collective duty that FEMA must uphold.[121]

For locations that are sacred to a Tribal Nation[122] where non-tribal members are not allowed, site inspections by FEMA staff are not permitted. Instead, FEMA will accept a Tribal Nation's certified damage assessment as a valid alternative to requiring FEMA staff to document and validate damage at these sacred sites. Additionally, to support the protection of tribally significant artifacts and human remains, FEMA will not require photos, site maps, and specific location details (such as GPS coordinates) for locations where tribal artifacts are located. This ensures that culturally sensitive data remains protected, that the Tribal Nation's cultural heritage is safeguarded, and its governmental sovereignty is strengthened.

2. WITHIN DESIGNATED AREA

To be eligible, the facility must be located, and work must be performed, in a designated area defined by the incident (except for sheltering, evacuation, and Emergency Operations Center (EOC) activities). Sheltering, evacuation, and EOC activities may occur outside of a designated area but must be used for activities resulting from the designated area.[123] Work performed on a facility located outside of a designated area is ineligible. This is true even if an eligible applicant is legally responsible for the work, including work performed outside the designated area to protect a facility within the designated area.

Tribal Nations do not always have geographical boundaries (e.g., counties, parishes or other) and some have boundaries that cross state lines. Therefore, tribal declarations do not usually define specific declared

[119] For more information, refer to: Executive Order 13007: Indian Sacred Sites.
[120] For more information, refer to: Native American Graves Protection and Repatriation Act | nps.gov.
[121] Federal Indian trust responsibility is a legal obligation under which the United States "has charged itself with moral obligations of the highest responsibility and trust" toward Indian tribes (Seminole Nation v. United States, 1942).
[122] American Indian Religious Freedom Act (1978).
[123] 44 C.F.R. § 206.223(a)(2).

geographical areas for Tribal Nations. For Tribal Nations, FEMA determines eligibility based on legal responsibility and whether the work is required due to the declared incident.

i. Documentation and Information to Support Within Declared Area

Table 8. Required Documentation and Information to Support Within Declared Area

For Small and Large Projects
▪ Facility location (e.g. address or global positioning system (GPS) coordinates; or ▪ Certification that the facility and subsequent work is located within the designated areas.

3. LEGAL RESPONSIBILITY

To be eligible, work must be the legal responsibility of the applicant requesting assistance.[124] To determine legal responsibility for debris removal and emergency protective measures, FEMA evaluates whether the applicant requesting the assistance either had jurisdiction over the area or the legal authority to conduct the work related to the request at the time of the incident.

To determine legal responsibility for permanent work, FEMA evaluates whether the applicant claiming the costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based on ownership and the terms of any written agreements (such as for facilities under construction, leased facilities, and facilities owned by a federal agency). Ownership of a facility is usually sufficient to establish the applicant's legal responsibility to restore the facility, provided it is not under construction by a contractor or leased to another entity at the time of the incident.

[124] 44 C.F.R. § 206.223(a)(3).

i. Documentation and Information to Support Legal Responsibility

Table 9. Required Documentation and Information to Support Legal Responsibility

For Small Projects	For Large Projects
▪ Certification that the facility and work are the applicant's legal responsibility.	▪ If necessary to validate legal responsibility, applicants must provide one or more of the following documents: ○ Deed; ○ Title; ○ Lease agreement (required for leased facilities); ○ Bill of sale; ○ Land contract; ○ Mortgage booklet or reoccurring mortgage payments; ○ Property tax receipt or property tax bill; ○ Real property structured insurance policy; and/or, ○ Contract (required for facilities under construction at the time of the incident).

ii. Facilities Under Contract for Construction

If a construction contract was in place for the facility at the time of the incident, FEMA reviews the contract to determine whether the applicant is legally responsible for the repair of the damage caused by the incident.[125] At a minimum, FEMA evaluates the contract to determine if it:

- Identifies the contractor or owner as being responsible for disaster-related repairs;
- Requires a builder's risk policy for losses that occur while the contractor has control of the facility;
- Has a *force majeure* provision, which is a clause that relieves the contractor from responsibility for damage beyond its reasonable control, such as natural disasters (often referred to as "acts of God") or acts of war; or,
- Has a provision that identifies the point at which the contractor transfers legal responsibility for the facility, or portions of the facility, back to the owner.

iii. Leased Facilities

An applicant may own a facility and lease it to a tenant, or an applicant may lease a facility owned by another party. In either case, FEMA reviews the lease agreement to determine legal responsibility for repair of

[125] Stafford Act § 406(e)(2); 42 U.S.C. § 5172.

damage caused by the incident. If the lease does not specify either party as responsible, FEMA considers the owner of the facility legally responsible for the costs to restore the facility.

If the lease is between two eligible applicants, FEMA provides PA funding to the applicant legally responsible for the restoration.

iv. Federal Facilities

Facilities owned and maintained by federal agencies are ineligible. There are instances when a federal agency constructed a facility and formally designated the applicant as the legally responsible entity for facility operation, maintenance, and repairs. FEMA reviews the other federal agency's authority and agreement between the federal agency and the applicant to confirm the legally responsible entity.

v. Jurisdiction Over an Area

In general, an applicant only has legal responsibility to conduct activities within its jurisdiction. If an applicant conducts activities outside its jurisdiction, it must demonstrate and document its legal basis and responsibility to conduct those activities.

vi. Conducting Activities on Private Property

Work on private property is the legal responsibility of the property owner and generally ineligible for PA funding. In rare cases, FEMA may provide PA funding for specific limited activities. In such cases, at a minimum, the applicant must have legal authority to conduct the activity. To determine whether a SLTT government has legal authority to conduct activities on private property, FEMA reviews the applicant's legal basis and specific authority to conduct the activities. See Private Property Debris Removal (PPDR) and Emergency Protective Measures on Private Property in Chapter 7 for additional eligibility requirements.

vii. Work Under the Authority of Other Federal Agencies

Other federal agencies (OFAs) have authority to conduct work that may overlap with FEMA's authority. FEMA's authority is broad, and most OFA authorities are more specific than FEMA's authorities. FEMA evaluates its authorities against OFA authorities.

Some of the factors that FEMA considers when evaluating whether an OFA has more specific authority are whether the OFA's authority is specifically and exclusively:

- Available for a particular type of facility, work, or activity;
- Applicable to a presidential declaration under the Stafford Act;
- Specific to an incident or type of incident; or,
- Delineated under direction by Congress.

In such cases, FEMA does not provide assistance for the facilities or work even if that OFA does not provide funding for the facility or work.[126] This restriction includes any activities or costs related to the work that falls

[126] 44 C.F.R. § 206.226(a).

under OFA authorities as the costs are not related to eligible work. Applicants should apply to the respective agency for assistance with a facility or work under that agency's authority.

viii. Environmental and Historic Preservation Requirements

Several laws, executive orders (EOs), and regulations establish requirements to protect the environment and preserve the Nation's historic and archaeological resources. FEMA reviews each PA project to ensure the work complies with applicable federal EHP laws and implementing regulations, and applicable EOs.[127] The applicant is responsible for complying with applicable federal, state, Tribal Nation, or territorial EHP laws even if FEMA is not providing PA funding for all the work. See Chapter 10: Environmental and Historic Preservation for more information on EHP review and considerations. See Appendix D: Environmental and Historic Preservation Compliance for a description of common EHP laws, regulations, and EOs.

FEMA provides technical support to applicants throughout the recovery process to help ensure compliance with all EHP laws, regulations, and EOs, as well as to identify opportunities to incorporate conservation and/or mitigation measures in the project area for the protection and preservation of environmental or historic resources.

ix. Policy Implementation Considerations

Disaster impacts can vary for communities, which are often influenced by a complex interplay of geographical, demographic, political, historical, and cultural factors. Unfortunately, vulnerable communities often bear a disproportionate brunt of disaster consequences, exacerbating pre-existing societal inequalities. This damaging cycle further compounds the challenges these communities face, intensifying their vulnerability to future disasters.

To disrupt this detrimental pattern and foster a more resilient nation, FEMA is focused on ensuring our core values of compassion, fairness, integrity, and respect are present as fundamental principles during recovery operations. Recognizing and addressing the distinct requirements of disproportionately impacted communities is crucial. This principle aligns with the Stafford Act intent which mandates that FEMA assistance be administered impartially, devoid of discrimination based on race, color, religion, nationality, sex, age, disability, language accessibility, or economic status.

In this endeavor, FEMA commits to integrating our core values throughout our mission and transformative changes across our workforce, programs, and the broader emergency management community. This objective emphasizes the necessity of viewing compassion, fairness, integrity, and respect not as isolated notions, but as integral components woven into the fabric of PA. Through these objectives, PA aims to forge a path towards a more resilient nation, where all communities can effectively withstand and recover from the impact of disasters.

x. Resilience Considerations

As our nation continues to witness devastating disaster activity year after year, it is imperative that FEMA invest in building a more resilient nation. The PA Program and policies must protect communities and the

[127] 2 C.F.R. § 200.300.

economy from the worst impacts of natural disasters before they occur. PA continues to develop new initiatives through its existing authorities and responsibilities, including implementing the Federal Flood Risk Management Standard, advancing efforts to encourage the adoption of building codes, wildland fire management mitigation opportunities in Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures, and providing cost share incentives for mitigation considerations.

Chapter 5: Damage and Impact Information

The Public Assistance (PA) Program provides reimbursement to address damage, debris impacts, and emergency protective measures necessary as a direct result of the declared incident. This chapter provides information on determining what damage and impacts are eligible, identifying damage and impacts, finalizing the list of impacts, and logically grouping into project applications.[128] The "Public Assistance Program Delivery Guide"[129] provides an overview of these process steps.

I. Impact List

Applicants must submit a list that includes each facility damaged, each debris impacted site, and each overarching emergency protective measure taken to address immediate threats to the general public. Applicants must also identify whether they are claiming management costs or work and costs for building code, floodplain management administration, or enforcement activities. An applicant lists the information by location with a rough estimate of the associated cost. The list does not include detailed descriptions of impacts, damaged components within a facility, or a final estimate of costs. FEMA does not use this information to determine the monetary assistance available for the applicant.

Each activity and impacted site in the impact list must include the following:

- Facility name or unique identifier (e.g., campus name or site);
- Facility type (e.g., building, road, or system);
- Specific location (e.g., address or global positioning system (GPS) coordinates) of debris impacts or facility damage (required);
- General description of damage, emergency protective measures, or approximate type and quantities of debris;
- Approximate cost;
- Status of work;
- Date of original facility construction;
- Whether the impact affects any vulnerable communities; and,
- Project priority level.

A. Impact List Submission Deadline

Applicants are required to identify and report all incident-related impacts and damage to FEMA within 60 days of attending a recovery scoping meeting.[130] FEMA may extend the deadline to identify and report the

[128] 44 Code of Federal Regulations (C.F.R.) § 206.201(l).
[129] For more information, refer to: *Public Assistance Program Delivery Guide*.
[130] 44 C.F.R. § 206.202 (d)(1)(ii).

impacts if an applicant submits a request with justification based on extenuating circumstances beyond the recipient's or applicant's control.[131] For example, FEMA extends the deadline for an inaccessible site or when an applicant is in an area where FEMA approved additional categories of work after the recovery scoping meeting.

B. Inundated and Submerged Roads

Inundated and submerged roads should not be assessed until flood waters have receded to ensure safety and allow time for saturated soil to dry out. Allowing adequate time for saturated soil to dry out is necessary to effectively determine if eligible surface damage has occurred. If the waters have not receded prior to the deadline, FEMA may approve a time extension for those sites if it is feasible to wait until flood waters recede to assess potential damage safely and effectively. Applicants must inform FEMA if there are roadways that experience inundation from closed basin flooding that may be submerged indefinitely due to water not being able to drain (see Closed Basin Flooding in Chapter 8 for additional information).

II. Grouping Impacts into Projects

This section defines logical grouping of work and damage.[132] FEMA and the recipient work with the applicant to identify impacts, facilities, and sites that can be combined into one project. This is a two-step process: 1) create groups based on categories of work and facility types and 2) identify sites or facilities that should be formulated into separate projects.

Facilities under the authority of other federal agencies or those that are ineligible for PA (e.g., facilities not in use at the time of the incident in accordance with Inactive or Partially Inactive Facility in Chapter 4) must not be formulated in a project. Applicants can either withdraw these sites and facilities from its impact list or FEMA will issue an ineligibility determination. Logical grouping should never be based on project size or grant administration considerations.

A. Initial Debris Removal Grouping (Category A)

The bullets below identify debris removal that FEMA initially groups together (each bullet stands for one initial grouping):

- All debris removal from public property;
- All debris removal from waterways;
- All debris removal from private non-commercial property;
- All debris removal from commercial property; and,
- All debris removal from private roads.

[131] 44 C.F.R. § 206.202 (f)(2).
[132] 44 C.F.R. § 206.201(k).

B. Initial Emergency Protective Measures Grouping (Category B)

The bullets below identify emergency protective measures that FEMA initially groups together. Each bullet stands for one initial grouping:

- All private property demolition;
- All emergency response activities (except those conducted on private property);
- Any emergency protective measures performed on private property;
- All emergency protective measures that involve facility construction or repairs; and,
- Each individual temporary facility.

C. Initial Permanent Work Grouping (Categories C-G)

The bullets below identify damaged facilities that FEMA initially groups together. Each bullet stands for one initial grouping. The list is based on infrastructure categories.

1. TRANSPORTATION

- All roads, bridges, low water crossings, and culverts;
- All mass transit facilities, such as subways and railways;
- All airports; and,
- All ports and harbors.

2. WATER CONTROL

- All dams and reservoirs;
- All canals, drainage channels, ditches, acequias and aqueducts;
- All stormwater retention and detention basins; and,
- All shoreline protection facilities (levees, berms, seawalls, sand revetments, etc.).

3. EDUCATION

- All school campuses.

4. HOUSING

- All public housing campuses.

5. HEALTH

- All hospital campuses and medical facilities.

6. EMERGENCY SERVICE FACILITIES

- All police, fire, emergency operations centers, etc.

7. OTHER GOVERNMENT FACILITIES

- All courthouses, prisons, administrative buildings, and other non-emergency buildings.

8. ENERGY

- All power generation facilities and plants, including all wind turbines, generators, substations, and other facilities within the confines of the plant;

- Entire power transmission and distribution system; and,
- Entire natural gas transmission and distribution system.

9. WATER/WASTEWATER

- All water and wastewater treatment plants;
- Entire water distribution system;
- Entire wastewater collection system; and,
- Entire irrigation system.

10. COMMUNICATIONS/INFORMATION TECHNOLOGY

- All communication systems.

11. NATURAL AND CULTURAL RESOURCES

- All parks, golf courses, and fish hatcheries;
- All beaches;
- All cemeteries, tribal burial grounds, and sacred sites; and,
- All libraries, museums, and art galleries.

FEMA includes administrative and support facilities at a site in the same project as the primary facility. Applicants must provide each damaged facility as a separate impact, whether ancillary or primary. FEMA groups administrative and support facilities with the primary facility using the site identifier and other information provided by the applicant in the impact list. Administrative and support facilities may include but are not limited to: buildings, outside structures (e.g., maintenance and storage sheds, restroom facilities, bath houses, pumping stations), communication towers and antennas, contents, supplies, equipment, vehicles, fences, parking lots, stairs, ramps, access roads, runways, signage, lighting, sidewalks, gutters, ditches, guard rails, integral ground, catch basins, outfall structures, piers, docks, trails, benches, picnic tables, swimming pools, golf courses, ball fields, etc. Note that for private nonprofits (PNPs), not all support facilities are eligible. See Facility Eligibility in Chapter 3 for additional information on evaluating PNP facility eligibility.

D. Final Grouping

After initially grouping sites and facilities into one project, FEMA identifies sites or facilities that need to be separated from the initial grouping and formulated into separate projects. Sites or facilities that need to be separated include those that:

- Are anticipated to require complex Environmental and Historic Preservation (EHP) reviews (see Chapter 10: Environmental and Historic Preservation for more information on EHP review and considerations);
- Are in a special flood hazard area (SFHA);
- Need funding for architectural/engineering design or studies to determine the method of restoration for the facility. In these cases, FEMA amends the project with the facility scope of work (SOW) and cost once the repair is determined so the facility is not captured on a separate project; and.
- Have 100 percent of all the work completed. Work items on the same facility may not be separated even if some of the work is complete and other work is not complete. Only a facility for which all work is complete should be separated from a facility that does not have all work complete;

- Are complex and require specialized technical support for project formulation, such as significantly damaged wastewater treatment plants, dams, hospitals, or schools;
- Potentially have ineligible work;
- Would make a project too burdensome to review due to the number of sites and facilities combined (consider separating into two projects or creating separate projects based on geographical locations); and/or,
- The applicant and FEMA agree there are specific circumstances that make it illogical to combine a site or facility with other sites or facilities.

PNP applicants should also separate critical service facilities into separate projects from noncritical service facilities so that projects with critical service facilities are not delayed pending the U.S. Small Business Administration (SBA) determination described under Small Business Administration Loan Requirement in Chapter 3.

E. Building Code and Floodplain Management Administration and Enforcement Activities Grouping (Category I)

All activities eligible under the Disaster Recovery Reform Act (DRRA) Section 1206, building code and floodplain management ordinance administration and enforcement should be grouped within a project.

F. Grant Management Activities Grouping (Category Z)

All activities eligible under the Disaster Recovery Reform Act (DRRA) Section 1215[133] and FEMA's Public Assistance Management Costs (Interim) policy,[134] should be grouped within a project.

[133] For more information, refer to: Section 1215 | Management Costs.
[134] For more information, refer to: Public Assistance Management Costs (Interim) (FEMA Recovery Policy FP 104-11-2).

Chapter 6: Cost Eligibility

This chapter provides information relating to PA cost eligibility. Not all costs arising from the incident are eligible for reimbursement through the PA Program. To be eligible, costs must meet the criteria described in this chapter. Additionally, applicants must retain cost, financial, procurement information, real property and equipment records, programmatic records, supporting documents, and all other records that are considered pertinent to the grant, for a period of three years from the date the final expenditure of funds is documented. In the case of litigation, an audit, or any other claim that would cause action is started before the 3-year period expires, the records must be retained until a resolution is reached and final action taken.

I. Eligibility Requirements

Costs are the final component evaluated for eligibility, as shown in Figure 8. Cost Eligibility, this criteria applies to all costs claimed. Not all costs incurred as a result of the incident are eligible. To be eligible, costs must be:

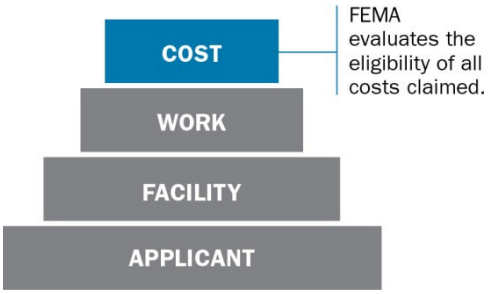


Figure 8. Cost Eligibility

- Directly tied to the performance of eligible work;
- Adequately documented, substantiated, or certified;[135]
- Reduced by all applicable credits, such as insurance proceeds and salvage values;[136]
- Authorized and not prohibited under federal or state, local, Tribal Nation, and territorial (SLTT) government laws or regulations;
- Consistent with the applicant's internal policies, regulations, and procedures that apply uniformly to both federal awards and other activities of the applicant; and,
- Necessary and reasonable to accomplish the work properly and efficiently.[137]

II. Reasonable Costs

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time an applicant makes the decision to incur the cost.[138]

For projects completed with contracted resources, FEMA conducts a reasonable cost analysis as described below if applicants submit cost claims based on non-competitive bids or contracts, time-and-materials contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts. For large projects, FEMA also conducts a reasonable cost analysis when the contract selection was noncompliant with the applicable procurement requirements, even though there may have been price competition. For projects completed

[135] 2 Code of Federal Regulations (C.F.R.) § 200.403(g).
[136] Stafford Act § 312; 42 United States Code (U.S.C.) § 5155; 2 C.F.R. § 200.406.
[137] 2 C.F.R. § 200.403.
[138] 2 C.F.R. § 200.404.

with an applicant's own resources (force account), FEMA only conducts a reasonable cost analysis for large projects.

A. Reasonable Cost Analysis

FEMA performs a preliminary review of an applicant's information and documentation to assess the complexity of the project and expertise required to complete a reasonable cost analysis. If specialized expertise is required, a subject matter expert with the appropriate specialized skills, knowledge, experience, or capability in the appropriate field, such as engineering, architecture, or cost estimating conducts the analysis.

FEMA determines reasonableness by evaluating whether:

- The cost is of a type generally recognized as ordinary and necessary for the type of facility or work.[139]
  - FEMA evaluates the skill level and level of effort necessary to complete the required activity. If the type of employee or skill level is not appropriate for the specific task, FEMA limits PA funding to a rate based on the appropriate employee type or skill level.
  - For complex projects that require staff with a higher level of technical proficiency and experience, FEMA determines PA funding appropriately. If the level of effort exceeds that necessary to complete a specific task, FEMA limits PA funding based on an appropriate level of effort.
- The cost is reasonable and necessary for the type of work being performed. FEMA determines whether the number of hours claimed are reasonable and necessary by evaluating:
  - The severity of the incident;
  - Whether the work was performed at a time when it was necessary to work extraordinary hours based on the circumstances of the incident;
  - The function of the employee for which the hours are claimed; and,
  - The number of consecutive hours the employee worked.
- The applicant participated in sound business practices and arm's length bargaining, ensuring parties to a transaction are independent of each other, without familial ties or shared interests and on equal footing without one party having control over the other.[140]
- The individuals concerned acted with prudence under the circumstances considering its responsibility to the applicant, its employees, its students or membership, the public, and the federal government.[141] If exigent or emergency circumstances existed, FEMA evaluates the period costs were incurred relative to the reasonable duration of the special circumstances.
- The applicant deviated from its established practices and policies.[142]
  - FEMA generally considers the applicant's own labor, equipment, and supply costs reasonable provided the costs are consistent with the entity's policies including, but not limited to, pay rates, labor policies, and cost schedules utilized during its normal operations.
- The applicant complied with procurement requirements (see Procurement and Contracting Requirements in this chapter). FEMA considers contract costs reasonable when the applicant adheres to

[139] 2 C.F.R. § 200.404(a).
[140] 2 C.F.R. § 200.404(b).
[141] 2 C.F.R. § 200.404(d).
[142] 2 C.F.R. § 200.404(e).

full and open competition under applicable federal procurement requirements, and the scope of services or work in the contract and level of effort is consistent with respect to the eligible scope of work (SOW).

- Cost or price analysis: The cost or price analysis is one component of documentation that FEMA reviews as part of its evaluation of reasonable costs. If the applicant does not submit a cost or price analysis, FEMA evaluates the elements that would have been part of such analysis.[143]
- Selection criteria: FEMA also evaluates whether the applicant selected the lowest responsible bidder based on the selection criteria to determine reasonableness. If the applicant selected a contractor with a higher bid than others, it must substantiate its selection based on the selection criteria set forth in its request for proposal (RFP).

- The cost is comparable to the current market price for similar goods or services in the same geographical area.[144]
  - FEMA makes its determination based on one or more of the following:
    - Historical documentation (previous contracts, invoices, or other documentation);
      - FEMA may compare costs to the applicant's historical costs for similar SOW or items. FEMA considers inflation and other factors, such as code or standard changes, availability of in-kind construction material, quantity, delivery schedules, and the economy. FEMA's Cost Estimating Format (CEF) employs a nationally recognized economic inflation factor;
    - Average costs in the area;
      - Weighted average unit pricing: FEMA may determine the average costs in the area using weighted average unit prices. These are comprised of the average costs of historical bid tabulations and related specifications from competitive bid pricing solicitations respective to the area and usually includes all factors required to bid public works projects, such as performance bonds, bid bonds, overhead and profit, and general conditions. The applicant or respective state, territorial, or regional agency, such as the state's department of transportation, may provide weighted average unit pricing and related specifications for FEMA's review.
      - Other applicants' project costs: FEMA may compare the costs with other applicants' projects, of similar SOW and similar circumstances, such as event impacts, magnitude, comparable shortages, market factors, and any other unique circumstances that may impact either of the costs.
    - Published unit costs from national cost estimating databases. When using this method, FEMA confirms that the cost publication is current and prepares the estimate using its CEF and the appropriate locality adjustment factor.
      - Industry cost estimating resources: When appropriate local data cannot be developed or obtained, FEMA uses industry standard construction cost estimating resources to prepare an estimate against which to evaluate reasonableness of the applicant's actual costs. These costing methods include, but may not be limited to, RS Means, BNi Costbooks, Marshall and Swift, and "Sweet's Unit Cost Guide", which are widely accepted in the industry and available for nationwide use.
      - Federal, state, or territorial unit costs: When industry standard construction cost estimating resources do not provide work items that are appropriate or applicable to the construction

[143] For more information, refer to: *FEMA's Procurement Disaster Assistance Team (PDAT) Field Manual*. Chapter 9: Scoping, Costing, and Final Reviews also provides information on how to conduct a cost or price analysis.
[144] 2 C.F.R. § 200.404(c).

activities required to complete the project, FEMA considers local cost data from other federal agencies (OFA) or state or territorial agencies responsible for construction of similar facilities in or near the locality.

- FEMA cost codes: FEMA maintains regional and national unit prices (cost codes). FEMA cost codes may be used when a cost is not found in other published unit costs or if the cost codes are otherwise more applicable than other published costs, such as for force account equipment.

- If FEMA finds the costs claimed are not reasonable, FEMA may disallow all or part of the costs associated with the project by adjusting eligible funding based on what costs (if any) are deemed reasonable.[145] When determining the reasonable amount, FEMA may use the least-cost alternative, the lowest bid received by the applicant, the pricing of another applicant's properly procured and selected contractor, or a FEMA-developed cost estimate based on industry standard cost estimating resources.

- The following factors or other extenuating circumstances existed and caused escalation in costs:
  - Shortages in equipment, materials, supplies, labor, or contractors: When escalating costs are due to shortages, FEMA considers whether the applicant's work continued beyond the period of shortages and whether there was an opportunity for the applicant to obtain more reasonable pricing.
  - Project-specific complexities: Complexities may include environmental or historic preservation compliance requirements, remote access or location, provision of a unique service with few providers, or elements requiring an extraordinary level of effort.
  - Economy of scale: FEMA considers the amount of work that may impact the unit price (for example, smaller projects may have higher rates and larger projects may have lower rates due to various efficiencies that are realized with larger projects. Additionally, when hauling is involved, such as with debris projects, some projects may have longer haul routes due to disposal site locations or detours for obstacles like road blockages).
  - Extraordinary labor costs: FEMA evaluates whether increased labor costs were required under the circumstances of the incident. FEMA looks at the severity of the incident, the magnitude and the difficulty of the work, the labor hours claimed for the employees performing the work, and the function of the employees performing the labor, against the circumstances of the incident to determine if all labor costs were necessary to complete the work and if the costs charged for the labor were reasonable.
  - Applicant's justification: When a reasonable cost analysis has been conducted and costs appear high for a project, FEMA reviews the applicant's justification to determine whether there are any additional factors that justify the higher cost as a reasonable amount.

III. Applicant (Force Account) Labor

FEMA refers to an applicant's personnel as "force account." FEMA reimburses force account labor based on actual hourly rates plus the cost of the employee's actual fringe benefits. FEMA calculates the fringe benefit cost based on a percentage of the hourly pay rate. Because certain items in a benefit package are not dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the percentage for straight-time pay. Fringe benefits provided under established written policies may include:

- Holiday leave;

[145] 2 C.F.R. § 200.339.

- Accrued sick and vacation leave;
- Social security matching;
- Medicare matching;
- Unemployment insurance;
- Workers' compensation;
- Retirement;
- Health, life, and disability insurance; and,
- Administrative leave.

Terminology

Fringe benefits - A percentage of the actual wages that pays for employee benefits.

Applicants must submit the following to support claims for labor costs:

Table 10. Required Documentation and Information for Labor Costs

For Small Projects	For Large Projects[146]
▪ Itemized cost summary including actual or estimated costs: ○ Number of employees;[147] ○ Total budgeted hours; ○ Total unbudgeted hours; ○ Average straight-time pay rate with fringe benefits;[148] and, ○ Average overtime pay rates with fringe benefits.[149]	▪ Pay policy; ▪ Itemized cost summary including estimated costs, or actual costs for completed work, for each employee: ○ Name ○ Job title and function; ○ Type of employee (e.g., full-time exempt, full-time non-exempt, part-time, temporary); ○ Date and hours worked; ○ Pay rate and fringe benefit rate; ○ Description of work performed with daily logs/activity reports; ○ Timesheets; and, ○ Fringe benefit calculations.[150]

[146] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[147] Estimates may be calculated based on actual or estimated total number of staff and total hours with average pay rates. Average rates may only be used for employees at similar pay grades and same category of employee (e.g., permanent full-time vs. part-time vs. temporary hire).
[148] Fringe benefits are calculated based on a percentage of the hourly pay rate.
[149] Fringe benefits are calculated based on a percentage of the hourly pay rate.
[150] Fringe benefits are calculated based on a percentage of the hourly pay rate.

A. Labor Policies

FEMA determines the eligibility of employee labor costs based on the applicant's pre-disaster written labor policy, provided the policy:

- Does not include a contingency clause that payment is subject to federal funding;
- Is applied uniformly regardless of a presidential declaration; and,
- Has set non-discretionary criteria for when the applicant activates various pay types.

If these requirements are not met, FEMA limits PA funding to the applicant's non-discretionary, uniformly applied pay rates. Labor cost eligibility is tied to the labor policy in effect prior to the start date of the incident period. "Pre-disaster" means "prior to the incident start date identified in the approved presidential disaster declaration" in the context of all PA Program authorities and guidance, not just labor policies.

B. Eligibility Criteria for Reimbursement of Employee Labor Costs

FEMA's criteria for reimbursing employee labor costs differ based on the category of work the employee performed, whether the employee's pay rate is straight time or overtime, and whether an applicant's employee labor costs are budgeted or unbudgeted. Note that costs associated with the salary and benefits of an employee on leave, regardless of the nature of the leave (e.g., sick leave) and regardless of whether the employee has leave to use, are ineligible. Administrative leave or similar labor costs incurred for employees sent home or told not to report due to emergency conditions are ineligible.

Terminology

Permanent (labor) - A full-time or part-time employee working on a permanent and ongoing basis, as set by an applicant's written labor or pay policy.

Full-time and **part-time** refer to the normal number of hours worked by an employee per pay period, as set by an applicant's [1] eligible pre-disaster written labor policy or [2] non-discretionary, uniformly applied pay rates.

Pay rates are set by an applicant's [1] eligible pre-disaster written labor policy or [2] non-discretionary, uniformly applied pay rates. **Exempt** employees are not subject to the overtime pay requirements set forth in the Fair Labor Standards Act. **Non-exempt** employees are subject to the overtime pay requirements set forth in the Fair Labor Standards Act.

For permanent work, categories C-G, straight-time and overtime pay are eligible for budgeted and unbudgeted employee labor costs.[151] For category I, straight-time pay is limited to extra hires, while overtime is eligible.[152]

[151] Stafford Act § 406(a)(2)(C); 42 U.S.C. § 5172; 44 C.F.R. § 206.228(a)(2)(i).
[152] Stafford Act § 406(a)(2)(c); 42 U.S.C. § 5172.

For emergency work, categories A-B, straight-time labor costs for budgeted employees are generally ineligible, while overtime labor costs are eligible.[153] However, straight time labor costs for budgeted employees are eligible pursuant to alternative procedures for debris removal, where the employee is performing eligible category A debris removal work.[154] For unbudgeted employees performing emergency work, costs for both straight-time and overtime labor hours are eligible.

Table 11. Emergency Work Labor Eligibility

Labor Classification	Type of Employee Hours	Eligible Overtime?	Eligible Straight-Time?
Budgeted Employee Hours (Debris Removal)	Permanent employee	Yes	Yes
Budgeted Employee Hours (Debris Removal)	Part-time or seasonal employee working during normal hours or season of employment	Yes	Yes
Budgeted Employee Hours (Emergency Protective Measures)	Permanent employee	Yes	No
Budgeted Employee Hours (Emergency Protective Measures)	Part-time or seasonal employee working during normal hours or season of employment	Yes	No
Unbudgeted Employee Hours (Debris & Emergency Protective Measures)	Reassigned employee funded from external source	Yes	Yes
Unbudgeted Employee Hours (Debris & Emergency Protective Measures)	Essential employee called back from furlough	Yes	Yes
Unbudgeted Employee Hours (Debris & Emergency Protective Measures)	Temporary employee hired to perform eligible work	Yes	Yes
Unbudgeted Employee Hours (Debris & Emergency Protective Measures)	Part-time or seasonal employee working outside normal hours or season of employment	Yes	Yes

1. REASSIGNED EMPLOYEES

Costs for employees reassigned to perform work that is not part of the employee's normal job functions are eligible. For example, a police officer may clear debris which FEMA provides PA funding based on the

[153] 44 C.F.R. § 206.228(a)(2)(iii)
[154] Stafford Act § 428(e)(2)(D); 42 U.S.C. § 5189f.

reassigned employee's normal pay rate, not the pay level appropriate to the work, because the applicant's incurred cost is the employee's normal pay rate.

2. REASSIGNED EMPLOYEES FUNDED FROM AN EXTERNAL SOURCE

Costs for straight-time hours of an employee funded from an external source (such as a grant from a federal agency or statutorily dedicated funds) are eligible if the employee is reassigned to perform eligible emergency work that the external source does not fund. FEMA must confirm that no duplication of benefits exists prior to approval.

3. BACKFILL EMPLOYEES

The applicant may need to temporarily replace an employee who is responding to the incident. If an employee is unable to perform normal duties due to performing eligible emergency work, certain costs associated with backfilling the employee are eligible, even though the backfilling employee is not performing eligible work. The eligibility of labor costs for a backfill employee is tied to an employee unable to perform normal duties because they are performing eligible emergency work, not because they are unable to work (e.g., on leave, furloughed).

Only costs for overtime hours worked by the backfill employee are eligible in the following scenarios:

- Backfill employee is budgeted; or
- Backfill employee is called in from scheduled leave.

Costs for straight-time hours worked by the backfill employee in the scenarios above are not eligible, even as a short-term increased operating expense.

If the backfill employee is not a budgeted employee, costs for straight-time hours worked by the backfill employee are eligible if the employee is a:

- Contracted or temporary employee; or
- Permanent employee called in on a normally scheduled day off (weekend or other off day).

Costs from backfilling labor are only eligible if:

- Costs are for a limited period of time based on the exigency of the circumstances; and,
- The applicant tracks and documents the additional costs.

4. ESSENTIAL EMPLOYEES CALLED BACK FROM FURLOUGH

Costs for straight-time hours of essential employees called back to work from a budget-related furlough due to the declared incident is eligible if the costs are not budgeted.

5. SUPERVISORS

Second-level supervisors and above (e.g., commissioners, mayors, department directors, police, and fire chiefs) are usually exempt from the overtime pay requirements set forth in the Fair Labor Standards Act.[155] Therefore, overtime costs related to these types of employees are ineligible, unless the applicant:

- Demonstrates that the employee was directly involved with a specific project;
- Normally charges that individual's time to specific projects regardless of federal funding; and,
- Incurs overtime costs for the employee in accordance with a labor policy that meets the criteria under Labor Policies in this chapter.

6. OTHER

FEMA may provide PA funding for extraordinary costs paid on an hourly basis (such as call-back pay, night-time and weekend differential pay, and hazardous duty pay) for essential employees to perform eligible emergency work if costs are paid in accordance with a pre-disaster written labor policy that meets the criteria above. All other PA Program eligibility requirements must be met.

FEMA considers bonuses and incentive pay to be discretionary rewards for an employee's performance rather than premium pay associated with and required for the actual hours worked. Bonuses and incentive pay are not eligible even when related to hazardous situations caused by the declared incident as those payments are not directly tied to and necessary for the performance of eligible work.

7. STANDBY TIME

FEMA provides PA funding for labor costs related to intermittent standby time for staff conducting eligible evacuation or sheltering, search and rescue, or emergency medical care. All of the following criteria must be met:

- Standby use and pay are consistent with the applicant's labor policy (or contractual obligation based on a labor agreement) and consistent with its practice in non-federally declared incidents OR a contract or union agreement that requires payment for standby time;
- The standby time occurred when it was necessary to have resources available to conduct the respective life-saving action;
- The number of hours and individuals were reasonable and necessary based on the number of resources required;
- The employee was conducting the respective life-saving action; and,
- All other labor cost eligibility criteria were met.

Examples of when FEMA may reimburse labor costs for standby time include, but are not limited to:

- When bus drivers are deployed to transport evacuees;
- When first responders are deployed for the purpose of evacuating or providing emergency medical care to survivors in order to save lives; and,

[155] For more information, refer to: U.S. Department of Labor Overtime Pay | dol.gov.

- When a contract or union agreement requires payment for standby time.

Additionally, the applicant may be required to pay firefighter costs from portal-to-portal, which may result in paying for 24-hour shifts with periods of rest. FEMA will reimburse costs based on such requirements. In these instances, FEMA limits its reimbursement to costs and timeframes that are reasonable and necessary, not to exceed 14 calendar days from the start of the incident period. The applicant must provide documentation to support the need for, and provision of, continuous support.

Standby time is separate and distinct from pre-positioning resources, which is addressed under Pre-Positioning Resources in Chapter 7.

IV. Applicant-Owned and Purchased Equipment

FEMA provides PA funding for the use of applicant-owned (force account) equipment, including permanently mounted generators, based on hourly equipment rates.[156] FEMA may provide PA funding based on mileage for vehicles, if the mileage is documented and less costly than hourly rates.

There are instances when applicants do not have sufficient equipment to effectively respond to an incident. If an applicant purchases equipment that it justifiably needs to respond effectively to the incident, FEMA provides PA funding for both the purchase price (subject to disposition requirements as specified under Disposition of Equipment and Supplies in this chapter) and either:

- The use of the equipment based on equipment rates; or
- The actual fuel and maintenance costs.

FEMA only applies equipment rates to the time an applicant is operating the equipment. Although costs associated with transporting equipment (e.g., labor and equipment costs used to transport equipment) to an eligible site are eligible, costs for standby time (time spent on hold or in reserve) are ineligible unless the equipment operator uses the equipment intermittently for more than half of the working hours for a given day. In this case the intermittent standby time is eligible.

Applicants must submit the following to support claims for applicant-owned or purchased equipment costs:

[156] 44 C.F.R. § 206.228(a)(1).

Table 12. Required Documentation and Information for Applicant-Owned or Purchased Equipment Costs

Equipment Type	For Small Projects	For Large Projects[157]
Applicant-owned equipment	▪ Itemized cost summary of actual or estimated costs broken out by type of equipment: ○ Total usage hours; and, ○ Total cost.	▪ Itemized cost summary including actual costs, or estimated costs for completed work, broken out by type of equipment: ○ Type of equipment and attachments used, including year, make, model, size, capacity, horsepower, and wattage (as applicable); ○ Location(s) or site(s) used; ○ Equipment code (if using FEMA rates); ○ Schedule of rates, including rate components (if not using FEMA rates); and, ○ Operator name with date and hours used each day.
Purchased equipment	▪ Itemized cost summary including actual or estimated costs broken out by type of equipment: ○ Total cost.	▪ Itemized cost summary including actual or estimated costs broken out by type of equipment: ○ Invoices or receipts.

FEMA provides PA funding for force account equipment usage based on FEMA or SLTT equipment rates in accordance with the specific criteria noted below.

A. FEMA Rates

FEMA publishes equipment rates applicable on a national basis.[158] FEMA's rate schedule includes any item powered by fuel or attached to any item powered by fuel. FEMA develops equipment rates based on all costs associated with ownership and operation of equipment (except for operator labor). FEMA equipment rate components include depreciation, overhead, equipment overhaul (labor, parts, and supplies), maintenance (labor, parts, and supplies), lubrication, tires, ground engaging component (if applicable), and fuel. Because the rates include maintenance costs, a mechanic's labor costs to maintain applicant-owned equipment are ineligible. Similarly, because the rates include fuel costs, an applicant cannot claim fuel costs in addition to FEMA equipment rates.

B. State, Tribal Nation, or Territorial Rates

State, Tribal Nation, and territorial (STT) rates are established under STT guidelines for use in normal day-to-day operations. FEMA provides PA funding based on STT rates up to $75 per hour.[159] FEMA only provides PA

[157] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[158] For more information, refer to: Schedule of Equipment Rates | fema.gov.
[159] 44 C.F.R. § 206.228(a)(1)(i).

funding for a rate above $75 per hour if the applicant demonstrates that each of the components of the rate is comparable to current market prices.[160]

C. Local Rates

Local rates are those developed under local government guidelines for use in normal day-to-day operations. FEMA generally provides PA funding for equipment usage based on the lower of either the local rate or the FEMA rate. However, if the local rate is lower, and the applicant certifies that the rate does not reflect all actual costs associated with operating the equipment, FEMA may provide PA funding based on the higher FEMA rate. FEMA may request that applicants provide documentation for the basis of its rate. Additionally, if the local rate is higher, applicants must document the basis for that rate and obtain approval from FEMA for the higher rate.[161]

If determining the lowest rate for each piece of equipment is overly burdensome because of the number of different types of equipment used, or if the applicant prefers, FEMA will reimburse all equipment use based on the lower of the two rate schedules, rather than based on a comparison of each individual rate. In these cases, the PA Division at FEMA Headquarters determines which schedule of rates is lower.

D. Equipment with No Established Rate

If applicants use equipment that has no established SLTT rate, FEMA reimburses that equipment based on the FEMA rate.[162] If FEMA does not have a rate established for the equipment, applicants may either submit a rate for approval or request that FEMA provide a rate. If an applicant submits a rate, it must include documentation demonstrating that each component of the rate is comparable to current market prices. The rate cannot be based on rental rates as such rates may include cost components, such as profit, that are above and beyond what is necessary to operate and maintain force account equipment.

E. Telecommunications Equipment Purchase

Applicants may not obligate or expend any FEMA awards, including any new, renewed, or extended purchase orders, contracts, subcontracts, or similar acquisitions on prohibited systems identified in the National Defense Authorization Act[163] to:

- Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services[164] as a substantial or essential component of any system, or as critical technology of any system;
- Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or

[160] Ibid.
[161] 44 C.F.R. § 206.228(a)(1)(ii).
[162] 44 C.F.R. § 206.228(a)(1)(iii).
[163] 2 C.F.R. § 200.216.
[164] Entities added to this list will be incorporated into the excluded parties list in the System for Award Management | sam.gov. When a user conducts a search of the excluded parties list, a record will appear describing the nature of the exclusion for any entity identified as covered by this prohibition.

- Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.[165]

Applicants may use PA funding to purchase replacement equipment, systems, or services.



Terminology

Covered telecommunications equipment includes telecom or video surveillance equipment or services produced or provided by an entity reasonably believed to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

V. Rented or Leased Equipment

When applicants rent or lease equipment, FEMA provides PA funding based on the terms of the agreement. Rental and leasing costs are eligible if:

- The applicant performed an analysis of the cost of rented or leasing versus purchasing the equipment;[166] and,
- The total rental or leasing costs do not exceed the cost of purchasing and maintaining equipment during the life of the eligible project.

If the rental or leasing costs exceed the cost of purchasing and maintaining the equipment, FEMA determines the amount of eligible costs based on an evaluation of the reasonableness of the costs claimed, including whether the applicant acted with prudence under the circumstances at the time it rented or leased the equipment.

If an applicant has a rent-to-own or lease-purchase agreement and obtains ownership during completion of eligible work, FEMA provides PA funding for the equipment use based on the hourly equipment rate, as described under Applicant-Owned and Purchased Equipment in this chapter. If the applicant completes the eligible work prior to obtaining ownership, FEMA provides PA funding based on the cost to rent or lease the equipment.

Applicants must submit the following to support claims for rented or leased equipment costs:

[165] Entities added to this list will be incorporated into the excluded parties list in the System for Award Management | sam.gov. When a user conducts a search of the excluded parties list, a record will appear describing the nature of the exclusion for any entity identified as covered by this prohibition.
[166] 2 C.F.R. § 200.318(d).

Table 13. Required Documentation and Information for Rented or Leased Equipment Costs

For Small Projects	For Large Projects[167]
▪ Itemized cost summary of actual or estimated costs for leased equipment: ○ Total usage days or hours; and, ○ Total cost.	▪ Itemized cost summary including actual costs, or estimated costs for completed work, broken out by type of equipment or each piece of leased equipment: ○ Type of equipment, including make, model, size, capacity, horsepower, and wattage (as applicable); ○ Location or site used; ○ Dates and hours used (required if lease agreement charges hourly rates); ○ Rates and total cost; ○ Vendor and invoice number; ○ Amount of fuel used (if not included in rental cost); ○ Lease agreement; and, ○ Invoices or receipts.

VI. Supplies

The cost of supplies, including materials, is eligible if:

- Purchased and justifiably needed to effectively respond to and/or recover from the incident; or
- Taken from the applicant's stock and used for the incident.

Applicants must track items taken from stock with inventory withdrawal and usage records.

FEMA provides PA funding for these items based on invoices, if available. If invoices are not available for items used from stock, FEMA provides PA funding based on the applicant's established method of pricing inventory.[168] If an applicant does not have an established method, FEMA provides PA funding based on historical data or prices from area vendors.

FEMA consults with the U.S. Department of Homeland Security Office of Inspector General Emergency Management Oversight Team in cases where it has difficulty determining a reasonable value.

Applicants must submit the following to support claims for materials and supplies costs:

[167] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[168] 2 C.F.R. § 200.453(b).

Table 14. Required Documentation and Information for Materials and Supplies Costs

For Small Projects	For Large Projects[169]
▪ Itemized cost summary including actual or estimated costs for materials and supplies: ○ Type and quantity; and, ○ Total cost.	▪ Itemized cost summary including estimated costs, or actual costs for completed work, for materials and supplies: ○ From stock: – Cost documentation, such as original invoices or other historical cost records; – Inventory records; – Type of supplies and quantities used; and – Location used. ○ Purchased: – Receipts or invoices; – Quantities used; and, – Justification (required if supplies were not used).

VII. Disposition of Equipment and Supplies

This section describes disposition requirements when purchased equipment or supplies (including materials) are no longer needed for federally funded projects.

In the context of disposition, equipment is any tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by an applicant for financial statement purposes, or $10,000.[170] Tangible personal property that does not fall under this definition of equipment is a supply.[171]

Terminology

Acquisition cost - The net invoice price of equipment including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with a recipient's regular accounting practices.

Personal property means property other than real property.

[169] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[170] 2 C.F.R. § 200.1.
[171] Ibid.

A. Disposition of Purchased Equipment

In accordance with federal regulations, state and territorial government applicants dispose of equipment in accordance with state and territorial laws and procedures. Tribal Nations must use, manage, and dispose of equipment acquired under a federal award in accordance with tribal laws and procedures. If such laws and procedures do not exist, Tribal Nations must follow the guidance in 2 C.F.R. 200.313(c)-(e).[172] When allowable pursuant to its own laws and procedures, state, Tribal Nation, and territorial applicants may not be required to compensate FEMA for its share of the original purchase.

When equipment purchased with PA funding is no longer needed for response to or recovery from the incident, local governments, and private nonprofit (PNP) applicants may use the items for other federally funded programs or projects, provided the applicant informs FEMA.[173]

When an individual item of equipment is no longer needed for federally funded programs or projects, local governments, and PNP applicants must calculate the current fair market value of the individual item of equipment. Applicants must provide the current fair market value for items that have a current fair market value of $10,000 or more and compensate FEMA for its share of the original purchase, based on the cost share. FEMA applies the requirement by reducing funding by the applicable amount.[174] If the individual item of equipment has a current fair market value less than $10,000, FEMA does not reduce the eligible funding.[175]

B. Disposition of Purchased Supplies

When supplies are no longer needed for federally funded programs or projects, all applicants, including state and territorial government and Tribal Nation applicants, must calculate the current fair market value of any unused residual supplies (including materials) that FEMA funded for any of its projects and determine the aggregate total.

Applicants must provide the current fair market value if the aggregate total of unused residual supplies is greater than $10,000 and compensate FEMA for its share of the original purchase, based on the cost share. FEMA applies this requirement by reducing funding by the applicable amount.[176] If the aggregate total of unused residual supplies is less than $10,000, FEMA does not reduce the eligible funding.

Examples: Equipment vs. Supplies

- Examples of **equipment** include: durable medical equipment, hospital beds, ventilators, refrigerator trucks, coolers, freezers, and information technology systems (which are different than iPads/laptops).

[172] 2 C.F.R. § 200.313(b).
[173] 2 C.F.R. § 200.313(c).
[174] 2 C.F.R. § 200.313(e)(2).
[175] 2 C.F.R. § 200.313(e)(1).
[176] 2 C.F.R. § 200.314(a).

- Examples of **supplies** include: iPads/laptops, personal protective equipment (PPE), such as N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields, protective clothing, sharps containers, and dry ice.

VIII. Disposition for Small Projects

For small projects, fair market value and the associated reduction are addressed during project formulation. To calculate depreciation of fair market value for equipment, the date used to determine when equipment is no longer needed is based on the work completion deadline. No reduction is taken for disposition of supplies for small projects because the quantity of supplies for which funding is eligible is an amount that is necessary and reasonable, and the estimate is based on the aggregate unused supplies not exceeding $10,000.

IX. Disposition of Real Property

If an applicant acquires or improves real property with PA funds, disposition and reporting requirements apply when acquired or improved real property is no longer needed for the originally authorized purpose.[177] Recipients and applicants must obtain specific disposition instructions from FEMA.[178]

X. Procurement and Contracting Requirements

FEMA provides PA funding for contract costs based on the terms of the contract or purchase agreement if an applicant meets federal procurement and contracting requirements. Federal procurement and contracting requirements for state and territorial government agencies and Tribal Nations are different than those for local government agencies and PNPs.

If an applicant does not comply with federal procurement requirements, FEMA applies an appropriate remedy in accordance with its authorities.[179] FEMA has determined an appropriate remedy under these circumstances is to either deny all costs associated with the contract or, if sufficient information is provided to substantiate a reasonable amount for the eligible work completed, FEMA only reimburses the portion of the costs it determines are reasonable and allowable based on all available information and documentation provided. For more information, please refer to Reasonable Cost Analysis in this chapter. In addition to monetary remedies, FEMA may also take non-monetary actions against the applicant as authorized by 2 C.F.R. §§ 200.208 and 200.339.

FEMA's Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)[180] provides additional details regarding federal procurement and contracting requirements.

[177] 2 C.F.R. §§ 200.311 and 200.330.
[178] 2 C.F.R. § 200.311(d).
[179] 2 C.F.R. § 200.339.
[180] For more information, refer to: Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules).

A. Procurement and Contracting Requirements for State and Territorial Government and Tribal Nation Entities

Applicants must comply with federal procurement requirements as a condition of receiving PA funding for contract costs for eligible work.

1. PROCUREMENT

State and territorial government applicants,[181] as well as Tribal Nations, must comply with federal procurement procedures at 2 C.F.R. § 200.317, which include:

- Following the same policies and procedures they would use for procurements with non-federal funds; and,
- Complying with the Environmental Protection Agency (EPA) guidelines in 2 C.F.R. § 200.322, Procurement of recovered materials.

FEMA reviews state, Tribal Nation, or territorial procurement policies or procedures or requests that a state, Tribal Nation, or territorial attorney certify in writing whether the applicant complied with the state's, Tribal Nation's, or territory's procurement policies and procedures.

2. CONTRACTING

State and territorial government applicants, as well as Tribal Nations, must include required provisions detailed in 2 C.F.R. § 200.327 in all contracts awarded.[182] Some provisions are based on sound contracting practices while others are required by federal law, EOs, and regulations. Some provisions do not apply under the PA Program (e.g., Davis Bacon Act[183] and Rights to Inventions Clause) while others require verbatim language.

Required contract provisions include:

- Remedies Clause;
- Termination for Cause and Convenience;
- Equal Employment Opportunity;
- Contract Work Hours and Safety Standards Act;
- The Clean Air Act (CAA) and the Federal Water Pollution Control Act;
- Debarment and Suspension;
- Byrd Anti-Lobbying Amendment Clause;
- Byrd Anti-Lobbying Amendment Certification;
- Procurement of Recovered Materials;
- Prohibition on Contracting for Covered Telecommunications Equipment or Services; and,

[181] See Applicant Eligibility: State, Local, Tribal Nation, and Territorial Government Entities for a description of each type of applicant.
[182] 2 C.F.R. § 200.327.
[183] The Davis Bacon Act requires "prevailing wage" payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labors. If the applicant incorporates prevailing wage rates as part of its normal practice for all contracts regardless of the funding source, then those rates are eligible.

- Domestic Preference for Procurements.

In addition to the required provisions, FEMA also recommends the following contract provisions be included in all contract awards:

- Changes Clause;
- Access to Records;
- Department of Homeland Security Seal, Logo, and Flags;
- Compliance with Federal Law, Regulations, and EOs Clauses;
- No Obligation by Federal Government;
- Program Fraud and False or Fraudulent Statements or Related Acts;
- Socioeconomic Contracting;
- Copyright; and,
- Providing Good, Safe Jobs to Workers.

The FEMA "Contract Provisions Guide"[184] provides the exact language for the provisions that require verbatim language and provides sample language for some of the other provisions.

Although time-and-material (T&M) contracts without a ceiling price and cost-plus-percentage-of-cost or percentage-of-construction contracts may be allowed by a state, Tribal Nation, or territorial government, their use carries high risk of noncompliance with the requirement that all costs be reasonable.[185]

B. Procurement and Contracting Requirements for Local Government Agencies and Private Nonprofit Organizations

Local governments and PNPs[186] must comply with:

- Their own documented procurement procedures;
- Applicable SLTT government laws and regulations; and,
- Applicable federal laws and regulations.[187]

If there is a conflict among these procurement rules and procedures, the local government or PNP must use the more restrictive requirement. Additionally, territorial governments should consult their legal counsel when a project involves a public building or public works facility as the Buy American Act may apply to the procurement process.

1. PRE-PROCUREMENT CONSIDERATIONS

FEMA encourages local governments and PNPs to:

[184] For more information, refer to: *FEMA Contract Provisions Guide*.
[185] 2 C.F.R. § 200.403(a).
[186] See Applicant Eligibility: State, Local, Tribal Nation, and Territorial Government Entities and Applicant Eligibility: Private Nonprofit Organizations in Chapter 3 for a description of which applicants are local governments or PNPs.
[187] 2 C.F.R. § 200.318(a).

- Establish or update written procurement procedures that reflect applicable SLTT laws and regulations;[188] and,
- Maintain required written standards of conduct covering conflicts of interest and governing the performance of employees who engage in the selection, award, and administration of contracts.[189]

Local governments and PNPs should also create a prequalified list of responsible contractors identified to possess the qualifications and technical abilities to satisfy the applicant's potential requirement.[190] Although not a contract, many entities have prequalified lists that serve as contract research.

A prequalified contractor is one that an applicant evaluated and determined to be qualified to perform the work based on capabilities, such as technical and management skills, prior experience, past performance, and availability. A prequalified contractor is not entitled to a "standby" contract. Applicants must still conduct full and open competition. The applicant cannot exclude potential bidders or offerors from qualifying during the solicitation period, even if they were not on the prequalified list.[191]

2. GENERAL FEDERAL PROCUREMENT REQUIREMENTS

Federal procurement requirements for local governments and PNPs are found at 2 C.F.R. § 200.318 through 200.327. The requirements include, but are not limited to:

- Providing full and open competition;[192]
  - Tribal Nation applicants may provide preference to Indian organizations or Indian-owned economic enterprises[193] if the applicant substantiates that it met the Indian Self-Determination and Education Act requirements.
- Conducting the following steps to ensure the use of small and minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms when possible:[194]
  - Place such organizations that are qualified on solicitation lists;
  - Ensure such organizations are solicited whenever they are potential sources;
  - Divide total requirements, when economically feasible, into smaller tasks or quantities;
  - Establish delivery schedules, where the requirement permits, encouraging its participation;
  - Use the services and assistance, as appropriate, of the U.S. Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce; and,
  - Require prime contractor to conduct the above steps if subcontracting.

[188] Ibid.
[189] 2 C.F.R. § 200.318(c)(1).
[190] 2 C.F.R. § 200.319(e).
[191] Ibid.
[192] 2 C.F.R. § 200.319(a).
[193] Per the Indian Financing Act of 1974, Pub. L. No. 93-262, § 2(e), 88 Stat 77 (codified as amended at 25 U.S.C. § 1452(f)), an Indian organization is the governing body of any federally-recognized Tribal Nation, or an entity established or recognized by the governing body. An Indian-owned economic enterprise is any commercial, industrial, or business activity established or organized by a member of a federally-recognized Tribal Nation for the purpose of profit, provided that such Indian ownership constitutes 51 percent or more of the enterprise.
[194] 2 C.F.R. § 200.321.

- Performing a cost or price analysis in connection with every procurement action above the simplified acquisition threshold,[195] including contract modifications;
  - Applicants must make independent estimates before receiving bids or proposals.[196]
- Evaluating and documenting the contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources;[197]
- Ensuring that the contractor was not suspended or debarred;[198]
- Excluding contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements to ensure objective contractor performance and eliminate unfair competitive advantage;[199] and,
- Maintaining records to detail the history of the procurement including, but are not limited to:
  - Rationale for the method of procurement;
  - Selection of contract type;
  - Contractor selection or rejection; and,
  - The basis for the contract price.[200]



Terminology

Simplified acquisition threshold - The dollar amount below which a non-federal entity may purchase property or services using small purchase methods. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is $250,000, but this threshold is periodically adjusted for inflation.

Micro-purchase: purchase of supplies or services where the total cost does not exceed the micro-purchase threshold set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1.

Simplified acquisitions procedure: relatively simple and informal procurement method for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1.

Sealed bid: publicly solicited bid awarded via a firm fixed-price contract to the lowest responsive and responsible bidder.

Proposal: normally conducted with more than one source submitting an offer and generally used when conditions are not appropriate for the use of sealed bids.

[195] The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. § 2.101. The threshold is adjusted periodically for inflation.
[196] 2 C.F.R. § 200.324(a).
[197] 2 C.F.R. § 200.318(h).
[198] 2 C.F.R. § 200.214.
[199] 2 C.F.R. § 200.319(b).
[200] 2 C.F.R. § 200.318(i).

Noncompetitive procurement: solicitation of a proposal from only one source. See 2 C.F.R. § 200.320 for federal rules that apply to each individual method.

Procurement of real property: The purchase or lease of real property is a unique transaction that might not readily allow use of one of the competitive methods of procurement. If an applicant is unable to conduct a competitive procurement, it may use a noncompetitive method in accordance with the requirements in this section. The appropriate method will depend on the facts and circumstances of each procurement.

3. PROCUREMENT METHODS

Local governments, and PNPs must use one of the following procurement methods:[201]

- Micro-purchase;
- Small purchase procedure;
- Sealed bid (formal advertising);
- Competitive proposal; or,
- Noncompetitive proposal (sole-sourcing).

C. Noncompetitive Procurement

FEMA reimburses reasonable costs incurred under a contract procured through a noncompetitive proposal, also referred to as sole-source, only when one or more of the following circumstances apply:

- The item is only available from one source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (this exception to competitive procurement is only for work specifically related to the circumstance and only while the circumstances exist. Therefore, applicants need to immediately begin the process of competitively procuring similar goods and services and transition to a competitively procured contract as soon as the circumstances cease to exist);
- FEMA or the recipient expressly authorizes a noncompetitive proposal in response to a written request from the applicant; or,
- After solicitation of several sources, competition is determined inadequate.[202]

In instances where applicants submit cost claims based on noncompetitive bids or contracts, time-and-materials contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts, FEMA will review the project for reasonable cost and procurement and contracting compliance.

For large projects with costs based on noncompetitive procurement, applicants must identify which of the four circumstances listed above apply and provide all of the following information, documentation, and justification:

[201] 2 C.F.R. § 200.320.
[202] 2 C.F.R. § 200.320(f).

- A brief description of the product or service being procured, including the expected amount of the procurement;
- Explanation of why a noncompetitive procurement is necessary;
    - If there was a public exigency or emergency, the justification should explain the specific conditions and circumstances that clearly illustrate why competitive procurement would cause unacceptable delay in addressing the public exigency or emergency. (Failure to plan for transition to competitive procurement cannot be the basis for continued use of noncompetitive procurement based on public exigency or emergency.)
- Length of time the noncompetitive contract will be used for the defined SOW, and the impact on that SOW should the noncompetitively procured contract not be available for that amount of time (e.g., how long does the applicant anticipate the exigency or emergency circumstances to continue; how long it will take to identify requirements and award a contract that complies with all procurement requirements; or how long it would take another contractor to reach the same level of competence);
- The specific steps taken to determine that the applicant could not have used, or did not use, full and open competition for the SOW (e.g., research conducted to determine that there were limited qualified resources available that could meet the contract provisions);
- Any known conflicts of interest and any efforts that the applicant made to identify potential conflicts of interest before the noncompetitive procurement occurred (and if the applicant made no efforts, explain why); and,
- Any other justification that applies.

If FEMA determines that none of the allowable circumstances existed or did not preclude the applicant from adhering to competitive procurement requirements, FEMA will work with the recipient to identify remedies for non-compliance. However, if FEMA or the recipient determine that non-compliance cannot be remedied by imposing additional conditions, FEMA will disallow all or part of the associated costs.[203]



Examples: Exigent vs. Emergency Situations

- **Exigent Situation**: A tornado impacts a city in June and causes widespread and catastrophic damage, including damage to a city school. The city wants to repair the school and have it ready for use by the beginning of the school year in September. The city estimates, based on experience, that awarding a contract using a sealed bidding process would require at least 90 days, and the city's engineer estimates that the repair work would last another 60 days. This would extend the project beyond the beginning of the school year. Rather than conducting a sealed bidding process, the city—in compliance with state and local law—wants to sole source with a contractor it has contracted with previously.
- **Emergency Situation**: Severe weather impacts a city and causes widespread and catastrophic damage, including loss of life, widespread flooding, loss of power, damage to public and private structures, and millions of cubic yards of debris across the city, leaving majority of the jurisdiction inaccessible. The city needs to begin debris removal activities immediately to restore access to the community, support search and rescue operations, power restoration, and address health and safety concerns.

[203] 2 C.F.R. § 200.339.

1. CONTRACT TYPES

FEMA reimburses costs incurred by local governments and PNPs using three types of contract payment obligations: fixed price, cost-reimbursement, and, to a limited extent, T&M.[204]

Local governments, and PNPs must maintain oversight on all contracts to ensure contractors perform according to the conditions and specifications of the contract and any purchase orders.[205]

D. Time-and-Materials Contracts

Time-and-material (T&M) contracts do not provide incentives to the contractor for cost control or labor efficiency. Therefore, use of T&M contracts is only allowed if all of the following apply:

- No other contract type was suitable;
- The contract has a ceiling price that the contractor exceeds at its own risk; and,
- The applicant maintains a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.[206]

FEMA generally limits the use of T&M contracts to a reasonable timeframe based on the circumstances during which an applicant could not define a clear SOW. Therefore, applicants should define the SOW as soon as possible to enable procurement of a more acceptable type of contract.

Some entities, such as rural electrical cooperatives, provide the materials necessary to restore the facilities and refer to such contracts as time-and-equipment (T&E) contracts. The limitations and requirements that apply to T&M contracts also apply to T&E contracts.

1. COST-PLUS-PERCENTAGE-OF-COST OR PERCENTAGE-OF-CONSTRUCTION

In addition to limiting reimbursement to costs that can be determined to be reasonable, FEMA does not reimburse the increased cost associated with the percentage on a cost-plus-percentage-of-cost calculation or percentage-of-construction cost method.[207] This type of contract billing is prohibited as it does not provide incentive to contractors to control costs because the contractor's profit increases as the costs of performance increase. Instead, it provides a financial interest to the contractor to increase costs so that its profit increases. FEMA identifies these cost methods by determining whether:

- Payment is on a predetermined percentage rate;
- The predetermined percentage rate is applied to actual performance costs;
- The contractor's total payment amount is uncertain at the time of contracting; and,
- The contractor's payment increases commensurately with increased performance costs.

[204] For additional information on these contract types and other procurement requirements, refer to: Contracting with Federal Funds for Goods and Services Before, During and After Disasters | FEMA.gov
[205] 2 C.F.R. § 200.318(b).
[206] 2 C.F.R. § 200.318(j).
[207] 2 C.F.R. § 200.324(c).

2. ADDITIONAL CONTRACTING CONSIDERATIONS

i. Pre-Positioned Contracts

Some applicants have pre-positioned contracts, which are contracts awarded before an incident occurs for the potential performance of work. These contracts are also referred to as advance or standby contracts. FEMA reimburses reasonable costs under a pre-positioned contract if:

- It was originally procured in compliance with federal procurement requirements;
- The SOW was adequate to cover the work performed;
- The work performed was eligible; and
- The contract term covers time when work was performed.

ii. Cooperative Purchasing

A cooperative purchasing program is a cooperative arrangement for acquiring goods or services that involves aggregating the demand of two or more entities to obtain a more economical purchase.[208] Program membership may provide entities with access to lists of agreements or contracts for goods and services at pre-negotiated rates or prices. Typically, the member then purchases the goods or services by negotiating with participating vendors and placing purchase orders or entering into contracts based on the pre-negotiated rates or prices. FEMA advises against the use of cooperative purchasing programs due to frequent compliance issues with federal procurement requirements. FEMA provides tools to assist with Cooperative Purchasing Programs[209] and provides additional information to assist with compliance issues for procurements above the simplified acquisition threshold. Applicants must document and explain how its use of the program complied with all procurement requirements.

Piggyback contracting is a type of cooperative purchasing and occurs when one entity assigns the contractual rights it has in a contract to another entity. FEMA advises against the use of piggyback contracts. Piggyback contracts are usually not compliant with federal procurement requirements as the SOW pertains to the needs of a different entity.

E. Required Documentation and Information for Procurement and Contracting

Applicants must submit the following to support claims for contract costs:

[208] Cooperative purchasing programs are distinguishable from joint procurements. A joint procurement is a method of contracting in which two or more purchasers agree from the outset to use a single solicitation and enter into a single contract with a vendor for the delivery of goods or services. Joint procurements must still comply with federal procurement requirements. However, FEMA sees fewer compliance issues with joint procurements.
[209] For more information, refer to: Cooperative Purchasing Programs | fema.gov.

Table 15. Required Documentation and Information for Contract Costs

For Small Projects[210]	For Large Projects[211]
▪ Itemized cost summary including actual or estimated costs for each contractor: ○ Procurement method: – Competitive; or – Non-competitive; ○ Type of contract: – Fixed; – Time-and-materials; – Cost-plus-percentage or percentage of construction; or – Other; and, ○ Total contract award.	▪ Itemized cost summary including estimated costs, or actual costs for completed work, for each contractor: ○ Contractor name; ○ Dates worked; ○ Billing or invoice number; ○ Amount; and, ○ Description of work performed; ▪ Procurement documents, including: ○ Requests for proposals; ○ Bids; ○ Selection process; ○ Procurement policy; ○ Cost or price analysis; ○ Contracts and change orders; and, ○ Invoices; and, ▪ Documentation that substantiates a high degree of contractor oversight (required for T&M contracts), including: ○ Daily or weekly logs; or ○ Records of performance meetings.

XI. Mutual Aid

When an applicant does not have enough resources to respond to an incident, it may request resources from another agency, organization, or jurisdiction through a "mutual aid" agreement. FEMA refers to the entity requesting resources as the requesting entity. FEMA refers to the entity providing the requested resource as the assisting entity.

[210] All small projects must comply with procurement and contracting laws and regulations. In instances where applicants submit cost claims based on non-competitive bids or contracts, time and materials contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts, FEMA will review the project for reasonable cost and procurement and contracting compliance.
[211] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.

Terminology

Requesting entity - An entity that requests mutual aid assistance from an assisting entity for work resulting from a declared fire, emergency, or major disaster within its legal jurisdiction.

Assisting entity - The entity providing mutual aid assistance to a requesting entity pursuant to a local or statewide mutual aid agreement.

FEMA provides PA funding to the requesting entity as it is legally responsible for the work. FEMA does not provide PA funding directly to the assisting entity. For the work to be eligible, the requesting entity must have requested the resources provided.

Some states have a statewide mutual aid agreement that designates the state as being responsible for reimbursing mutual aid costs. In these states, the assisting entity may request funding directly from the state, with prior consent of the requesting entity, in accordance with applicable state laws and procedures. If the requesting entity and the state approve the request and the state pays the assisting entity, FEMA provides PA funding to the state. The requesting entity may be responsible for reimbursing the state for any non-federal local cost share, depending on specific state requirements.

The requesting entity or state, if applicable, must provide a description of the services requested and received, along with documentation of associated costs (e.g., labor, equipment, supplies, or materials) to FEMA in support of a request for PA funding.

A. Post-Incident Agreements

When the requesting and assisting entities do not have a written agreement or, where such an agreement exists but is silent on reimbursement, they are not precluded from engaging in mutual aid activities eligible for reimbursement through PA. In such situations, these entities can enter into a verbal agreement to define the resources to be provided and to establish the terms, conditions, and costs of the assistance to be rendered. This allows flexibility in responding to the incident's specific needs.

The agreement should be consistent with past practices for mutual aid between the entities. For example, if the requesting entity does not normally reimburse an assisting entity for its costs, it should not agree to do so specifically for the declared incident.

Prior to funding, the verbal agreement, or agreement otherwise not defined in writing, must be codified in writing, and formally adopted by officials from both entities. This written record should outline the specifics of the agreement, including the resources requested/provided, the terms, conditions, and cost arrangements. Once the verbal agreement is documented and executed, it should be submitted with the project application in which the requesting entity is seeking reimbursement through FEMA. The requesting entity should submit documentation to support the costs claimed under the mutual aid agreement. The mutual aid documentation provided in this section is not exhaustive and therefore FEMA is clarifying that any documentation that provides details of services requested and received,

information about labor, equipment, and supplies may be used to support this requirement for eligibility. Some examples include letters, memos, written agreements, meeting minutes, emails, purchase orders, and invoices certifying to work and costs.

B. Eligibility

Mutual aid resources are eligible when used for emergency protective measures, emergency utility restoration (regardless of whether it is deemed category B or F), building code and floodplain management administration and enforcement, or grant management activities. Labor expenses for the assisting entity will be treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided labor rates are reasonable. Costs to transport the assisting entity's equipment and personnel to the declared area are eligible.



Examples: Ineligible Work Performed by an Assisting Entity

Ineligible work performed by an assisting entity includes, but is not limited to:

- Preparing to deploy;
- Dispatch operations outside the receiving state, Tribal Nation, or territory;
- Training and exercises; and,
- Support for long-term recovery and mitigation operations.

The assisting entity's straight-time and overtime labor are eligible, including fringe benefits. When the requesting entity is an SLTT government and the assisting entity is another division within the same SLTT government, straight-time for budgeted employees of the assisting entity is ineligible.

If the assisting entity backfills deployed personnel, overtime for backfill personnel is eligible even if they are not performing eligible work. However, straight-time for backfill personnel is ineligible.

FEMA reimburses the use of equipment provided to a requesting entity based on either the terms of the agreement or equipment rates (detailed under Applicant-Owned and Purchased Equipment in this chapter). FEMA provides PA funding to repair damage to this equipment the same way as it provides PA funding to repair damage to applicant-owned equipment (detailed under Damage Caused During Performance of Emergency Work in Chapter 7).

C. Emergency Management Assistance Compact

The Emergency Management Assistance Compact (EMAC) is a national interstate mutual aid agreement that enables states and territories to share resources in response to an incident. Work performed outside the receiving state or territory that is associated with the operation of EMAC, including tracking of resources, is ineligible unless the work is associated with the receiving state's or territory's emergency operations for the incident. FEMA does not perform a reasonable cost analysis of work performed through EMAC, as long as the project followed established EMAC rules.

D. Required Documentation and Information for Mutual Aid

Applicants must submit the following to support claims for mutual aid costs:

Table 16. Required Documentation and Information for Mutual Aid Costs

Mutual Aid Type	For Small Projects	For Large Projects[212]
EMAC[213]	▪ The EMAC Resource Support Agreement signed by all parties (required at project obligation); ▪ "Interstate Reimbursement Summary" (R-1) form (required at project closeout); ▪ "Associated Intrastate Reimbursement Summary" (R-2) forms (required at project closeout); and, ▪ Proof of payment by the requesting entity to the assisting entity (required at project closeout).	▪ The EMAC Resource Support Agreement signed by all parties (required at project obligation); ▪ "Interstate Reimbursement Summary" (R-1) form (required at project closeout); ▪ "Associated Intrastate Reimbursement Summary" (R-2) forms (required at project closeout); and, ▪ Proof of payment by the requesting entity to the assisting entity (required at project closeout).
Non-EMAC	▪ Itemized cost summary including actual or estimated costs: ○ Services requested and received; and, ○ Total cost.	▪ Written agreement; ▪ Services requested and received; ▪ Itemized cost summary including actual costs for completed work. For each assisting entity: ○ Dates worked; ○ Entity name; ○ Description of work performed; and, ○ Total cost. ▪ Same information and documentation for labor, equipment, and supplies (as applicable); and, ▪ Invoices.

[212] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[213] All forms referenced are contained within *the EMAC Operations Manual v.4.5, May 2023.*

XII. Prisoners

FEMA provides PA funding for prisoner labor costs based on the rate that the applicant normally pays prisoners. FEMA also provides PA funding for prisoner transportation to and from the worksite and extraordinary costs of security guards, food, and lodging.[214]

Applicants must submit the following to support claims for prison labor costs:

Table 17. Required Documentation and Information for Prison Labor Costs

For Small Projects	For Large Projects[215]
▪ Itemized cost summary including actual or estimated costs: ○ Number of individuals; ○ Pay rate; and, ○ Total cost.	▪ Prison's labor policy; ▪ Estimated hours and pay rate for work to be completed; ▪ Itemized cost summary including actual costs for completed work. For each individual: ○ Name and location worked; ○ Date and hours worked; and, ○ Pay rate; and, ▪ Description of work performed with daily logs/activity reports.

XIII. National Guard

The Governor may activate National Guard personnel to State Active Duty in response to an incident. Labor costs and per diem, if applicable, are eligible for State Active-Duty personnel performing eligible work. Both straight-time and overtime are eligible, including fringe benefits.

The U.S. Department of Defense funds National Guard personnel activated under Full-Time National Guard Duty (Title 32) or Active Duty (Title 10). Therefore, Title 32 and Title 10 personnel costs, and any other costs funded by the U.S. Department of Defense, such as training, are ineligible.

XIV. Direct Federal Assistance

When the impact of an incident is so severe that the SLTT governments lack the capability to perform or contract eligible emergency protective measures, recipients may request that the federal government provide this assistance directly.[216] FEMA may task another federal agency to perform or contract the work

[214] Stafford Act § 406(a)(2)(B); 42 U.S.C. § 5172.
[215] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[216] 44 C.F.R. § 206.208(a).

provided it is an eligible activity under Chapter 7: Emergency Work Eligibility unless the work falls under the authority of another federal agency.[217] FEMA issues a "Mission Assignment" to task the work and refers to it as direct federal assistance (DFA).[218] DFA has the same cost-share provisions applicable to the declaration (as described under Federal Cost Share in Chapter 1).

XV. Increased Federal Cost Share for a Limited Timeframe

When the president authorizes an increased federal cost share for a limited timeframe, FEMA applies it to all eligible costs related to work performed through 11:59 p.m., in the time zone where the work took place, on the date of expiration. Therefore, the applicant needs to delineate costs for work performed prior to the deadline versus costs for work performed after the deadline. FEMA applies the increased federal cost share according to the following criteria:

- Employees: Costs for hours worked up to the date and time of expiration.
- Purchased material and equipment: Cost to purchase each item that the applicant needed and used to perform eligible work during the increased funding period. In this case, FEMA also applies the increased federal cost share to the usage cost up to the date and time of expiration.
- Leased equipment and facilities: Costs to lease each item up to the date and time of expiration. FEMA calculates the cost based on a proration of time. For example, if a facility is leased for six months based on a monthly rate and the period for the increased federal cost share expired 45 days from the start of the lease, FEMA applies the increased federal cost share to the cost to lease the facility for 45 days based on a proration of the monthly rate.
- Contract costs: Costs for work performed up to the date and time of expiration. If costs cannot be distinguished by date performed, FEMA prorates costs based on the percentage of work completed prior to the deadline versus the percentage of work remaining. However, applicants should work with contractors to delineate dates associated with work.

XVI. Donated Resources

Individuals and organizations often donate resources to assist with response activities. FEMA does not provide PA funding for the value of donated resources; the value of the resources is used only as an offset for the non-federal share of eligible work and costs. However, FEMA allows the applicant to use the value of donated resources (non-cash contributions of property or services)[219] related to eligible emergency protective measures and debris removal to offset the non-federal cost share of its eligible emergency protective measure and debris removal projects and DFA. FEMA also allows applicants to use the value of donated resources related to eligible work on a permanent work project to offset the non-federal cost share of that specific permanent work project. FEMA applies the offsets regardless of the cost share arrangements between a recipient and its subrecipients.

For emergency protective measures and debris removal specifically, if there is a time-limited 100 percent federal cost share period (see Increased Federal Cost Share for a Limited Timeframe in this chapter) and the

[217] 44 C.F.R. § 206.208(c)(2).
[218] 44 C.F.R. § 206.208(c)(1).
[219] 2 C.F.R. § 200.1.

applicant uses resources donated during this time period, it may use the value of those donated resources to offset the non-federal cost share incurred after the 100 percent federal cost share period expires. If the applicant uses resources from its stock that were donated during a previous incident or timeframe, it may use the value of those donated resources to offset its non-federal cost share if the applicant has not claimed the resources as an offset in a previous incident.

The applicant may apply the offset if all of the following conditions are met:

- The donated resource is from a third party (e.g. private entities or individuals, including individuals that are normally paid employees of the applicant or federal, state, Tribal Nation, or territorial government, but are volunteering as unpaid individuals and not on behalf of the employer);
- The donated resource is necessary and reasonable;[220]
- The applicant uses the resource in the performance of eligible work[221] and within the respective project's period of performance;[222] and,
- The applicant or volunteer organization tracks the resources and work performed, including description, specific locations, and hours.[223] The applicant must track the donated resources for permanent work to the specific project for which it is associated.

FEMA considers unpaid individuals who volunteer its labor to the applicant to be third-party even if they are officially members or employees of the applicant organization (e.g., volunteer fire fighters at a PNP volunteer fire department performing eligible emergency protective measures).

Resources donated to the applicant by an organization that would normally provide the same resources under its mission, such as the American Red Cross, are eligible as an offset if the organization is not federally funded. Additionally, if a mutual aid agreement provides for assistance at no cost to the applicant, the applicant may use the value of that assistance to offset its non-federal cost share.

The value of a donated resource is ineligible as an offset toward the non-federal cost share if the resource is:

- Donated by a federal agency;
- Donated by another federally funded source;
- Funded through a federal award;[224]
- Used as an offset to any other federal award;[225] or,
- Used for ineligible work.

[220] 2 C.F.R. § 200.306(b)(3).
[221] Applicants may not use the value of standby time as a donated resource as no work is being performed.
[222] 2 C.F.R. § 200.309. For emergency protective measures, the end of the period of performance is equal to the latest emergency protective measures project's period of performance.
[223] 2 C.F.R. §§ 200.434(d) and 306(b)(1).
[224] 2 C.F.R. § 200.306(b)(5).
[225] 2 C.F.R. § 200.306(b)(2).

Requesting donated resources from contractors during the solicitation phase of a procurement may violate federal procurement rules as it may be considered overly burdensome or restrictive of competition.[226] To remain compliant, applicants can do the following:

- Accept unsolicited donated resources from contractors;
- Maintain a list of donors; and,
- Ask contractors that are donating resources to work with other organizations.

If an applicant accepts donated resources from contractors, it must not do any of the following:

- Solicit donations in its requests for proposals or solicitations for bids;
- Directly solicit donations or requests for proposals from contractors who are actively bidding on its contracts;
- Grant an award to a contractor which has donated resources for the specific work covered by the contract;
- Show favoritism or give the appearance of showing favoritism to a contractor who has donated resources; and,
- Limit competition among contractors based on donated resources, especially for smaller contractors (including women or minority owned businesses) that might not be able to afford to donate resources.

A. Offset Amounts

FEMA applies values to donated resources as follows:

- Volunteer labor: The offset is based on the same straight-time hourly labor rate, and fringe benefits, as a similarly qualified person in the applicant's organization who normally performs similar work. FEMA does not offset volunteer labor based on overtime or premium rates. If the applicant does not have employees performing similar work, FEMA credits the non-federal share based on a rate consistent with those ordinarily performing the work in the same labor market that the applicant would otherwise compete for that type of work.[227]
- Equipment: The offset is based on equipment rates and must not exceed the fair rental value (if loaned) or the fair market value of equipment that is in similar age and condition at the time of donation (if donated with a transfer of title). See Applicant-Owned and Purchased Equipment in this chapter for information on equipment rates.[228]
- Supplies or materials: The offset is based on current commercial rates, which FEMA validates based on invoices from previous purchases or information available from vendors in the area. The amount must not exceed the fair market value at the time of donation.[229]
- Buildings or land: For buildings or land donated permanently (i.e., with a transfer of ownership), the offset is based on the fair market value at the time of donation as established by an independent appraisal and certified by the applicant.

[226] 2 C.F.R. § 200.319.
[227] 2 C.F.R. § 200.306(e) and (f).
[228] 2 C.F.R. § 200.306(g), (h), and (i).
[229] 2 C.F.R. § 200.306(g).

- Space: For building or land space donated for temporary use, the offset is based on the fair rental value of comparable privately-owned space in the same locality as established by an independent appraisal.[230]
- Logistical support: Reasonable logistical support for volunteers doing eligible work, such as donations warehousing and management related to eligible work, may be eligible either for funding (if the applicant provides the logistical support) or as a donated resource offset (if a third party provides the logistical support), subject to approval by FEMA.

FEMA applies the donated resource offset against the combined non-federal cost share for all the applicant's emergency protective measure and debris removal projects (category A and B) under the declared incident. The offset may not exceed the total out-of-pocket costs and is capped at the total non-federal cost share of these projects. FEMA prepares the category A and B donated resource project as a category B project separate from all other category A and B projects for the applicant's incurred costs. FEMA does not obligate the donated resource project until after it obligates all emergency protective measure and debris removal projects for the applicant.

For permanent work, FEMA applies the donated resource offset against the non-federal cost share of the specific permanent work project for which the resources were donated. The offset may not exceed the total out-of-pocket costs. FEMA caps the offset at the non-federal cost share of that specific permanent work project. The type and amount of resources donated must directly correlate to, and may not exceed, the type and amount approved in the SOW of the permanent work project (e.g., if the approved SOW includes replacement of 10 chairs and 15 chairs are donated, the donated resource offset is limited to 10 chairs). FEMA adjusts the Permanent Work project to capture any donated resource offsets related to the project upon receipt of the donated resource information and no later than closeout.

B. Required Documentation and Information for Donated Resources

Applicants must submit the following to support the offset value for donated resources:

Table 18. Required Documentation and Information for Offset Values for Donated Resources

Labor	Equipment	Supplies or Materials
▪ Sign-in sheet; and, ▪ For each individual: ○ Name; ○ Title and function (for professional services); ○ Date and hours worked; ○ Location; and, ○ Description of work performed.	▪ For each piece of equipment: ○ Name of donor; ○ Type of equipment, including make, model, size, capacity, horsepower, and wattage (as applicable); ○ Location or site used; and, ○ Dates and hours used.	▪ For each supply or material: ○ Name of donor; ○ Description and quantity; ○ Location used; and, ○ Documentation to validate claimed value, including invoices, or historical cost records.

[230] 2 C.F.R. § 200.306(i)(3).

XVII. Project Management and Design Services

FEMA provides PA funding for costs related to project management and design activities as part of the project. Project management includes activities performed to manage the actual project. These are activities that would be required regardless of whether the entity is receiving PA funding and differ from management costs, which are costs for activities related to the receipt and administration of PA funding.

Project management activities may include procurement actions, legal review of contracts, monitoring contractor work, construction oversight and inspections, environmental and historic preservation technical studies/surveys, permits, best management practices as recommended by regulatory agencies, and completing load tickets for debris operations. These activities are eligible provided they are tracked, documented, and directly related to a specific, eligible project.

Architectural, engineering, and design services for the approved SOWs, including PA hazard mitigation, are also eligible provided the services are reasonable. Some projects do not need these services or require only basic services, while others require specialized engineering and design.

When evaluating the eligibility of project management and design services, FEMA considers whether the project includes improvements that are ineligible for funding (costs for management and design services associated with improvements or other ineligible work are ineligible). Additional architectural and engineering services related to the improvements for Improved Projects are ineligible.

XVIII. Grant Management and Administration

FEMA provides contributions for management costs that a recipient or subrecipient incurs in administering and managing PA awards under a major disaster or emergency declaration. Eligible activities include any indirect cost, direct administrative cost, and other administrative expense associated with developing and managing eligible PA projects under a major disaster or emergency. For recipients, FEMA provides PA funding for management costs based on actual costs incurred up to 7 percent of the total award amount. For subrecipients, FEMA provides PA funding for management costs based on actual costs incurred up to 5 percent of a subrecipient's total award amount. Additional information is available in FEMA's interim policy.[231]



Terminology

Indirect cost - A cost incurred for a common or joint purpose benefiting more than one cost objective that is not readily assignable to the cost objectives specifically benefited.

In support of a claim for management costs, applicants must provide a summary of the work performed and costs claimed, including the number of employees, a list of equipment used and the equipment rates, total

[231] For more information, refer to: *PA Management Costs Interim Policy* (FEMA Recovery Policy FP 104-11-2) and *PA Management Costs Standard Operating Procedures*.

labor and equipment hours (or miles for vehicles) during the time frame, total labor and equipment costs, and general description of all tasks performed by individuals during the time frame. If FEMA has questions or concerns based on a review of the cost summary submitted, it may request additional documentation in support of an applicant's claim. All claims must be associated with eligible facilities, work, and costs.

XIX. Surveys to Assess or Locate Damage or Debris Impacts

Applicants are responsible for identifying locations of incident-related damage or debris impacts. Costs related to assessing overall impacts of an incident, locating damage or debris impacts, and conducting preliminary damages assessments (PDAs) are not eligible project costs. However, these costs are eligible as management costs if the costs meet the requirements discussed under Grant Management and Administration in this chapter.

If, during a survey after the declaration, an applicant identifies incident-related damage to a facility, the costs related to the inspection of that facility are eligible as management costs provided the facility is eligible.

Further detailed inspections of that damage to determine the extent of damage or quantity of debris and method of repair or removal, including professional evaluations, are eligible as part of the work to restore the facility or work to remove the debris. If an applicant performs a detailed inspection of a partially damaged system, eligible costs are based on the percentage of the system that was damaged. For example, if after inspecting 500 linear feet of sewer line, the applicant identified 100 linear feet of line damaged by the incident, only one-fifth of the inspection costs are eligible.

FEMA has specific eligibility criteria for inspecting earthquake damage to buildings constructed with welded steel-moment frames.[232]

XX. Duplication of Benefits

FEMA is legally prohibited from duplicating benefits from other sources. If applicants receive financial assistance from another program, from insurance, or from any other source for the same work that FEMA funded, FEMA reduces the eligible cost or deobligates funding to prevent a duplication of benefits.[233]

A. Insurance Proceeds

FEMA cannot provide PA funding that duplicates insurance proceeds.[234] Consequently, FEMA reduces eligible costs by the amount of:

- Actual insurance proceeds, if known;[235] or

[232] For more information, refer to: *Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment-Frame Buildings* (FEMA-P-352).
[233] Stafford Act § 312; 42 U.S.C. § 5155; 2 C.F.R. § 200.406.
[234] Stafford Act § 312; 42 U.S.C. § 5155; 2 C.F.R. § 200.406.
[235] 44 C.F.R. §§ 206.252(c) and 253(a).

- Anticipated insurance proceeds based on the applicant's insurance policy if the amount of actual insurance proceeds is unknown. FEMA subsequently adjusts the eligible costs based on the actual amount of insurance proceeds that the applicant receives.

FEMA requires applicants to take reasonable efforts to pursue claims to recover insurance proceeds that it is entitled to receive from its insurer(s). FEMA limits funding if the insurance policy provides coverage that should be pursued. If an applicant expends costs to pursue its insurance claim, FEMA offsets the insurance reduction with the applicant's reasonable costs to pursue the claim if:

- The incurred cost resulted from pursuing insurance proceeds for FEMA-eligible work; and,
- The applicant can provide documentation to show that the incurred cost was attributed to pursuing more insurance proceeds than the initial settlement amount.

If applicants receive insurance proceeds for ineligible losses (e.g., business interruption), FEMA calculates a relative apportionment of insurance proceeds to determine the insurance reduction based on:

- The proceeds received per type of loss as specified by the insurance policy or settlement documentation;
- Policy limits for categories of loss as specified in the insurance policy; or
- The ratio of total eligible losses to total ineligible losses.

FEMA Recovery Policy (FP) 206-086-1, Public Assistance Policy on Insurance,[236] describes insurance reductions in detail.

Applicants must submit the following to support insurance proceeds:

Table 19. Required Documentation and Information for Insurance Proceeds

Type	Including (As Applicable)
Insurance Policies	▪ Property insurance; ▪ Auto insurance; ▪ Flood insurance; ▪ Wind insurance; and ▪ Self-insurance or self-insured retention.
Insurance Policy documentation	▪ Property policy declaration pages; ▪ Schedule of covered locations; ▪ Property policy forms and endorsements; ▪ Inland marine coverage section; and ▪ Equipment breakdown section.

[236] For more information, refer to: *Public Assistance Policy on Insurance* (FEMA Recovery Policy 206-086-1).

Type	Including (As Applicable)
Insurance Settlement Information (as soon as available)	▪ Final statement of loss; ▪ Adjuster's estimates; ▪ Settlement checks or documentation to support total insurance proceeds; ▪ Correspondence explaining the settlement amount and allocation; and, ▪ Letter of denial.

B. Non-Federal Grants and Cash Donations

Grants and cash donations from non-federal sources are subject to the following criteria based on whether the funds are provided toward a specific purpose and whether that specific purpose is otherwise eligible for PA funding.

- If the funds are designated for the same purpose as eligible work, the following apply:
  - The applicant may use the funds toward its non-federal cost share.
  - If the funds are not used toward the non-federal cost share, FEMA considers the donation or non-federal grant a duplication of benefits and reduces eligible costs by the duplicated amount.
  - If the funds exceed the amount of the non-federal cost share, FEMA reduces eligible costs by the excess amount.
- If the funds are designated for non-specific purposes, FEMA does not consider the funds a duplication of benefits. Applicants may use the funds toward their non-federal cost share. If the funds exceed the amount of the non-federal share, applicants can apply the excess amount toward ineligible work.
- If the funds are designated for a specific purpose that is ineligible, FEMA does not allow applicants to apply the funds toward their non-federal cost share.

C. Third-Party Liability

A third party is a private entity or individual that is not involved in the federal award, i.e., not the applicant or federal, state, Tribal Nation, or territorial government. When a third party causes damage or increases the cost of repair or cleanup and an applicant requests FEMA funding for the costs, FEMA requires the applicant to make reasonable efforts to pursue claims to recover costs it is entitled to receive from the third party.

If the costs recovered are not adequate despite the applicant's good faith effort, FEMA reduces eligible costs based on the recovered amount. If the applicant receives funds from the third party for eligible and ineligible work or losses, FEMA determines the offset amount based on:

- The proceeds received for eligible losses as specified by the settlement documentation; or
- The ratio of total eligible losses to total ineligible losses.

D. Other Federal Awards

If applicants receive funds from another federal agency for the same purpose as PA funding, it is a duplication of benefits. FEMA cannot duplicate funds provided by another federal agency.

XXI. Duplication of Funding Between FEMA Programs

FEMA provides assistance under other programs, such as its Individual Assistance (IA) programs and Hazard Mitigation Grant Program (HMGP), that could duplicate assistance that is available under the PA Program. FEMA must ensure it does not duplicate funds in areas where its programs have the same or similar eligible costs. Applicants must certify that no work or costs being claimed are covered by another funding source.

XXII. Interest on Loans

Applicants may need to obtain a loan to complete work. Financing costs for a loan are only eligible when they meet the conditions established in 2 C.F.R. § 200.449.

XXIII. Ineligible Costs

The Stafford Act authorizes FEMA to provide PA funding for specific work performed as a result of the incident. It does not authorize FEMA to provide PA funding for all losses or costs resulting from the incident. The following costs are ineligible because the Stafford Act does not authorize FEMA to provide PA funding for these items.

A. Loss of Revenue

FEMA cannot provide PA funding for revenue lost due to the incident. The following are examples of when loss of revenue may occur because of an incident:

- Hospitals release noncritical patients to make room for survivors;
- Hospitals sustain damage that reduces pre-disaster existing capacity;
- Waiving toll fees on a toll road, even if for evacuation purposes;
- Waiving the normal fee for ferry service to encourage alternate transportation;
- Waiving tipping fees;
- A utility system is shut down; or
- Events are cancelled due to an entity using a venue for incident-related activities, such as sheltering.

B. Loss of Useful Service Life

FEMA cannot provide PA funding for the projected loss of useful service life of a facility. For example, if a road has been inundated by flood waters for an extended timeframe, FEMA cannot provide PA funding for the value of the projected loss of useful life of the road due to the long-term effects the inundation might have on the road. Similarly, FEMA cannot fund the value of the loss of landfill capacity due to incident-related debris.

C. Tax Assessments

SLTT governments may conduct tax assessments to re-assess real property values after an incident. Costs related to conducting these assessments are ineligible because the assessments are neither essential to addressing an immediate threat to life or improved property, nor connected with the permanent restoration of eligible facilities.

D. Increased Operating Costs

Increased costs related to operating a facility or providing a service due to an increased demand for the services the facility provides are generally ineligible, even when directly related to the incident. However, short-term increased costs that are directly related to accomplishing specific emergency health and safety tasks as part of emergency protective measures are eligible if the costs meet the requirements discussed under Increased Operating Costs in Chapter 7. An example of a potentially eligible increased operating costs includes fuel for increased use of a pumping station. This limited allowance is separate from and does not include loss of revenue.

Chapter 7: Emergency Work Eligibility

PA provides assistance for two types of emergency work following a presidential declaration which are crucial to disaster response and recovery efforts. Financial assistance and technical support are available to ensure the efficient and effective execution of debris removal and emergency protective measures. The goal is to minimize the negative impacts of disasters and promote a swift recovery for affected communities. Proper implementation of these components is essential for communities to regain stability, ensure public safety, and restore essential services following a disaster.

XI. Eligibility Considerations for Emergency Work

FEMA is authorized to provide PA funding for emergency work,[237] including category A: debris removal and category B: emergency protective measures. This chapter includes PA policy for emergency work, which is work that must be done immediately to:

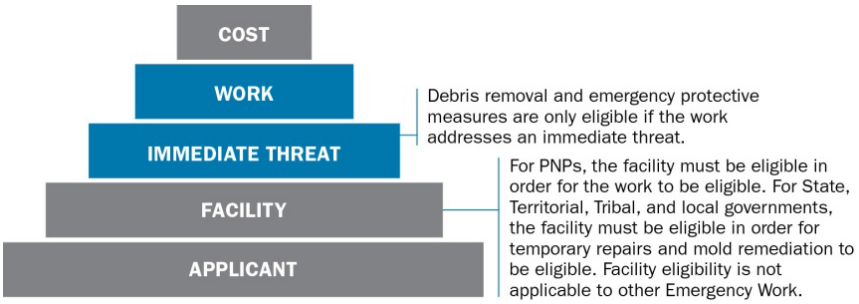


Figure 9. Emergency Work Eligibility

- Save lives;
- Protect public health and safety;
- Protect improved property;[238] or
- Eliminate[239] or lessen an immediate threat of additional impacts and damage.[240]

"Immediate threat" is defined as the threat of additional damage or destruction from an incident that can reasonably be expected to occur within five years of the declared incident.[241]

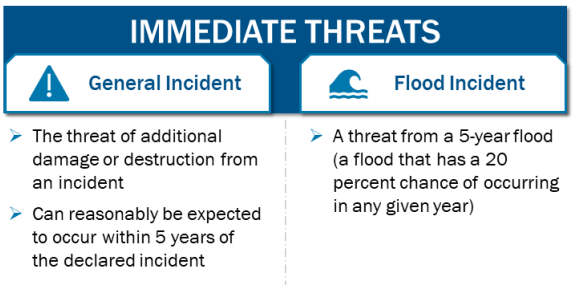


Figure 10. Immediate Threats

The declared incident must have caused the immediate threat to exist. However, the threat itself can be from any type of incident; it is not limited to the type of incident that caused the initial impact or threat. For example, post-fire rainfall may trigger debris flows in an area affected by a presidentially declared wildfire and may pose an immediate threat to life, public health and safety, or improved property. Therefore, under a wildfire declaration, emergency work to

[237] 44 Code of Federal Regulations (C.F.R.) § 206.201(b).
[238] 44 C.F.R. § 206.221(d)
[239] While the regulatory definition of the term "emergency work" includes the term "avert," the regulatory language used for the specific eligibility criteria for debris removal and emergency protective measures includes the term "eliminate," not "avert."
[240] In addition to addressing immediate threats to life, health and safety, and improved property, debris removal may be authorized to ensure economic recovery of the affected community.
[241] 44 C.F.R. § 206.221(c).

address an immediate threat of additional damage or destruction from a rain event that could reasonably be expected to occur within five years could be eligible.

Example: Emergency Work

Tornadic winds damage an eligible facility's roof. The applicant can be reimbursed for emergency work, which is usually work that is temporary in nature. If the legally responsible PA applicant demonstrates that the condition of the roof is such that another incident would cause it to collapse, causing an immediate threat to life, public health and safety, or improved public or private property, FEMA provides funding to temporarily stabilize and make temporary repairs to the roof as a category B emergency work emergency protective measure until the applicant can make more lasting repairs to their facility; reference Emergency Repair or Stabilization in this chapter.

The deadline to complete emergency work is six months from the declaration date unless the recipient or FEMA authorizes an extension.[242] Although federal regulations allow six months to complete emergency work, FEMA considers the urgency with which applicants proceed with work when evaluating eligibility. Applicants should not delay when taking actions to address threats to life, public health and safety, and improved property.

To be eligible, work must be the legal responsibility of an eligible applicant.[243] Emergency response is a governmental function. As a result, for private nonprofit (PNP) applicants, eligible emergency work is generally limited to that associated with an eligible PNP facility as follows:

- Debris removal from the facility property; and,
- Emergency protective measures to prevent damage to the facility and its contents.

In limited circumstances, other types of emergency work for PNPs is eligible when essential components of a facility are urgently needed to save lives or protect public health and safety. If a PNP provides emergency services at the request of, certified by, and documented in a written agreement or contract between the legally responsible government entity, FEMA provides PA funding through that government entity as the eligible applicant.

For state, local, Tribal Nation, and territorial (SLTT) applicants, evaluating facility eligibility is not necessary for most emergency work. For these applicants, eligibility of emergency work is primarily based on the evaluation of an immediate threat and the legal authority to perform the work. Applicants must submit the following to support work eligibility:

[242] 44 C.F.R. §§ 206.204(c) and (d).
[243] 44 C.F.R. § 206.223(a)(3).

Table 20. Required Documentation and Information for Work Eligibility

For Small Projects	For Large Projects[244]
▪ Detailed description of work performed; and, ▪ Applicants can certify to the following requirements to support eligibility in lieu of providing documentation to support that: ○ The work is as a result of immediate threat; ○ Activities are required as a result of the declared incident; ○ Work is located on improved property and in a declared area; and, ○ The applicant is legally responsible for conducting the work.	▪ Detailed description of work performed; ▪ Description of immediate threat; and, ▪ Records demonstrating presence of immediate threat (e.g., technical reports, safety inspector reports, photographs), if an immediate threat is not apparent based on the descriptions provided.

XII. Debris Removal (Category A)

Debris removal activities, such as clearance, removal, recycling, and disposal are eligible under category A if the removal is in the public interest, based on whether the work is necessary to:

- Eliminate immediate threats to life, public and safety; or
- Eliminate immediate threats of significant damage to improved[245] public or private property; or
- Ensure economic recovery of the affected community to the benefit of the community-at-large;[246] or
- Reduce or limit the risk to life and property by removing substantially damaged structures and associated ancillary facilities as needed to convert property acquired using Hazard Mitigation Grant Program (HMGP) funds for uses compatible with open space, recreation, or wetlands management practices. Such removal must be completed within two years of the declaration date unless extended by the Assistant Administrator of the Recovery Directorate at FEMA Headquarters.[247]

Debris includes, but is not limited to, vegetative debris, construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, white goods, and vehicle and vessel wreckage. Snow-related activities including road clearing are not considered debris operations, as snow is not considered a form of debris.

[244] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.
[245] 44 C.F.R. § 206.221(d).
[246] This condition is generally restricted to debris removal from large commercial areas when a significant percentage of the commercial sector of a community is impacted and coordinated debris removal is necessary to expedite restoration of the economic viability of the affected community.
[247] Stafford Act § 407; 42 United States Code (U.S.C.) § 5173; 44 C.F.R. § 206.224(a).

For a PNP applicant, eligible debris removal is limited to that associated with an eligible facility, including debris on the property of the eligible facility.

Terminology

Federal-aid roads are highways on the federal-aid highway system and all other public roads not classified as local roads or rural minor collectors. The federal-aid highway system means the National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways (the Interstate System).

Debris left by the declared incident on improved public property and public rights-of-way (ROWs), including federal-aid roads, is eligible for removal. If state, local, Tribal Nation, or territorial (SLTT) governments authorize residents to move incident-related debris from residential, non-commercial properties to public ROWs, the removal of this debris is also eligible. However, commercial debris placed on the ROW is not eligible. FEMA provides Public Assistance (PA) funding to cover the removal of debris from ROWs for a limited period.

Applicants must monitor contracted debris removal operations and document work and costs that may be eligible for reimbursement through the PA Program. Monitoring debris removal operations requires observation and documentation of all work from the point of debris collection to the final disposal.

Table 21. Required Documentation and Information for Debris Removal and Disposal

For Small Projects	For Large Projects[248]

▪ Estimated or actual debris quantities removed, reduced, disposed, and recycled by type;
  ○ If debris removal is contracted, documentation to substantiate monitoring was conducted.
▪ Location of temporary debris staging and reduction sites (TDSRs) and permanent or final disposal sites;
▪ Type of disposal site (e.g., municipal, private, or commercial);
  ○ If commercial, name of vendor.
▪ Copies of permits and authorization for reduction and disposal sites;
	▪ Estimated or actual debris quantities removed, reduced, disposed, and recycled by type;
	▪ Load tickets;
	▪ Photographs of debris impacts;
	▪ If debris removal is contracted:
	  ○ Proof of monitoring; and
	  ○ Tower logs.
	▪ Location of temporary debris staging and reduction sites (TDSRs) and permanent or final disposal sites;
	▪ Type of disposal site (e.g., municipal, private, or commercial);
	  ○ If commercial, name of vendor.

[248] FEMA utilizes an attribute-based sampling approach, following the *GAO Financial Audit Manual*, for verifying supporting documentation for PA projects; therefore, FEMA may select a representative sample rather than reviewing all documentation. For more information, refer to: *Public Assistance Sampling Procedure*.

For Small Projects	For Large Projects[248]
▪ Documentation to substantiate debris is not pre-existing for waterway debris removal; ▪ Documentation to substantiate coordination with other regulatory or federal agencies; and, ▪ If removing vegetative debris in an invasive species quarantine area: ○ Name of quarantine area; ○ Method of disposal; and ○ Confirmation that the debris was disposed of according to quarantine requirements.	▪ Copies of permits and authorization for reduction and disposal sites; ▪ Documentation to substantiate debris is not pre-existing for waterway debris removal; ▪ If removing vegetative debris in an invasive species quarantine area: ○ Name of quarantine area; ○ Method of disposal; and ○ Confirmation that the debris was disposed of according to quarantine requirements. ▪ Documentation to substantiate coordination with other regulatory or federal agencies; and, ▪ If removing hazardous trees, limbs and stumps, documentation supporting the specifics of the immediate threat with the location and photos.

To support removal of hazardous trees, limbs, and stumps FEMA requires that applicants retain documentation supporting the specifics of the immediate threat with the location and photograph or video documentation. However, for small projects, this doesn't have to be provided with the project when submitted. As will all project documentation, the information should be retained and can be requested.

Removal of debris placed on the public ROWs from commercial properties is ineligible unless FEMA provides an exception for very limited, extraordinary circumstances (see Debris Removal from Private Commercial Property in this chapter). Additionally, removal of materials related to the construction, repair, or renovation of either private non-commercial or commercial structures is ineligible.

Removal and disposal of pollutants and hazardous substances are generally eligible under category B; however, they may be eligible as category A debris removal when conducted as part of the overall debris operations. Otherwise, removal of hazardous materials is category B work in accordance with the Hazardous Materials section in this chapter.

Debris removal from the following is ineligible:

- Federally maintained navigable channels and waterways (usually under the authority of the U.S. Coast Guard (USCG) or USACE[249]);

[249] The U.S. Army Corps of Engineers (USACE) has primary responsibility for the removal of debris from federally-maintained navigable channels and waterways. Section 202 of the Water Resources Development Act of 1976 (PL 94-587) authorizes USACE to remove debris from federally-maintained commercial harbors and water areas immediately adjacent thereto. Sections 15, 19 and 20 of the River and Harbor Act of 1899, as amended, authorize USACE to remove sunken vessels or other obstructions from navigable waterways under emergency conditions. A navigable waterway is one that has been authorized by Congress and which USACE operates and maintains for general (including commercial and recreational) navigation. USACE's policy is to oversee removal of

- Agricultural land; and
- Natural, unimproved land, such as heavily wooded areas and unused areas.[250]

Removing debris to restore the pre-disaster capacity of engineered facilities is eligible as permanent work if the applicant can substantiate the pre-disaster capacity and maintenance of that facility as described under Restoring the Capacity of Channels, Basins, and Reservoirs in Chapter 8.

Removal and disposal of pollutants and hazardous substances are eligible either as category A debris removal when conducted as part of the overall debris operations or as category B work in accordance with the Hazardous Materials section in this chapter.

A. Hazardous Limbs, Trees, and Stumps

Eligible vegetative debris includes tree limbs, branches, stumps, or trees that are still in place, but damaged to the extent they pose an immediate threat to life, public health and safety, or significant damage to improved property. These items are ineligible if the hazard existed prior to the incident, or if the item is in a natural area and does not extend over or otherwise threaten improved property or public-use areas, such as trails, sidewalks, or playgrounds.

Contractors typically charge debris removal based on a unit price for volume (cubic yards) or weight (tons). A hazardous tree or stump may be collected individually. When these items are collected individually, contractors often charge a price per tree or stump based on its size. FEMA encourages applicants to procure branch or limb removal from trees on a one-time charge per tree basis as opposed to a unit price per limb or branch to facilitate more cost-effective operations. FEMA has specific eligibility criteria and information or documentation requirements for funding these items.



Terminology

Hazardous tree - A hazardous tree is a standing tree that presents a hazard to the public due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or limbs, and the direction and lean of the tree per 43 U.S. Code § 1772.

Bracing a tree is eligible as category B work. FEMA encourages applicants to work with a registered professional forester, an individual with a Tree Risk Assessment Qualification (TRAQ), or a certified arborist to perform hazard tree assessments to determine those trees that can be saved by bracing without causing a public health and safety concern.

Pruning, maintenance, trimming, and landscaping are ineligible.

sunken vessels by an identifiable owner, operator or lessee if the sunken vessel is in or likely to be moved into a federal navigation channel. USACE will remove a vessel using its emergency authorities only if the owner, operator or lessee cannot be identified or they cannot affect removal in a timely and safe manner.

[250] 44 C.F.R. § 206.224(b)).

1. HAZARDOUS LIMB OR BRANCH REMOVAL

Removal of broken limbs or branches that pose an immediate threat is eligible. For example, a broken limb or branch hanging over improved property or public-use areas, such as trails, sidewalks, or playgrounds, poses an immediate threat of falling and causing injury to the public or damage to improved property.

FEMA does not fund removal of broken limbs or branches located on private property unless:

- The limbs or branches extend over the public right-of-way (ROW);
- The limbs or branches pose an immediate threat; and
- The applicant removes the hazard from the public ROW (without entering private property).

Note: Only the minimum cut necessary to remove the hazard is eligible. For example, cutting a branch at the trunk is ineligible if the threat can be eliminated by cutting it at the closest main branch junction.

2. HAZARDOUS TREE REMOVAL

FEMA considers incident-damaged trees to be hazardous and eligible for removal if the tree presents a hazard to the public due to conditions including, but not limited to:

- Deterioration or physical damage to the root system, trunk, stem, or limbs;[251] or
- The direction and lean of the tree per the Occupational Safety and Health Standards.[252]

For hazardous trees that have 50 percent or more of the root-ball exposed, removal of the tree and root-ball and filling the root-ball hole are eligible. For contracted removal of a tree with an exposed root-ball, FEMA will not reimburse two separate unit costs to remove the tree and its root-ball.

For hazardous trees that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding to flush cut the item at ground level and dispose of the cut portion based on volume or weight. Grinding any residual stump after cutting the tree is ineligible.

The removal of hazardous trees that pose an immediate threat to life, public health and safety, or significant damage to improved public or private[253] property, as assessed by the authority having jurisdiction, in coordination with a qualified individual[254] is eligible.

When estimating or calculating costs for tree removal, applicants may utilize a cost per parcel of land approach or a cost per tree. Applicants must clearly state which method they have selected when requesting reimbursement for eligible work. Only those trees that pose an immediate threat to public health and safety

[251] 29 C.F.R. § 1910.266(c).
[252] Forest Health Protection Technical Report Revised: March 2022 (FHP Report # RO-22-01).
[253] Removal from private property subject to the policy language regarding Private Property Debris Removal (PPDR) in this chapter.
[254] According to the International Society of Arboriculture, only a registered professional forester, an individual with a Tree Risk Assessment Qualification (TRAQ), or a certified arborist may perform hazard tree assessment; however, the authority having jurisdiction of the geographic location, will make the determination regarding recognition of individuals qualified to make the determination.

or improved property are eligible under either approach. The applicant must provide sufficient documentation to validate the approach was cost-effective.

3. HAZARDOUS STUMP REMOVAL

For stumps that have 50 percent or more of the root-ball exposed, removal of the stump and filling the root-ball hole are eligible. If grinding a stump in-place is less costly than extraction, grinding the stump in-place is eligible.

Stump removal in areas with known or high potential for archaeological resources requires that FEMA Environmental and Historic Preservation (EHP) further evaluate and consult with the state historic preservation officer (SHPO) and/or tribal historic preservation officer (THPO). If an applicant discovers any potential archeological resources during stump removal, the applicant must immediately stop work and notify FEMA. For highly sensitive areas, such as cemeteries or Tribal Nation lands, FEMA will determine if a qualified monitor[255] is required.

i. Contracted Stump Removal

FEMA only reimburses contracted costs charged on a per-stump basis if extraction is required as part of the removal. Applicants need to ensure the price for stump removal includes extraction, transport, disposal, and filling the root-ball hole.

For stumps that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding to flush cut the item at ground level and dispose of the cut portion. Grinding any residual stump is ineligible.

For stumps that do not require extraction, FEMA only provides PA funding based on volume or weight as removal of these stumps does not require special equipment.

If an applicant incurs additional costs in picking up stumps that the contractor did not extract, it should present information or documentation to substantiate the costs as reasonable based on the equipment required to perform the work.

ii. Documentation Requirements for Hazardous Limbs, Trees, and Stumps

In addition to the general documentation required for debris removal operations, applicants must provide all of the following documentation to support the eligibility of work to remove tree limbs, branches, stumps, or trees that are still in place:

- Quantity removed;
- Quantity, location, and source of material to fill root-ball holes; and,
- Description of equipment used to perform the work.

[255] A qualified monitor is an individual meeting the Secretary of the Interior's Professional Qualification Standards in archaeology in accordance with Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines | nps.gov.

B. Waterways

Debris removal from waterways that is necessary to eliminate an immediate threat to life, public health and safety, or improved property is eligible. Removal of debris in a waterway that does not meet this criterion is ineligible, even if the debris is deposited by the incident.

Certain federal agencies hold specific authority for debris removal in waterways. For effective coordination and to respect their areas of responsibility, agencies like the EPA and USCG should be consulted before debris removal begins. The EPA and USCG have specific authority over the removal of hazardous materials: the EPA handles hazardous material removal in most inland water areas, while the USCG is responsible for coastal waters, navigable lakes, and rivers outside of inland zones. Debris removal from waterways usually requires coordination with the U.S. Army Corps of Engineers (USACE) for the use of a nationwide permit and with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) to ensure compliance with Section 7 of the Endangered Species Act (ESA).

1. NAVIGABLE WATERWAYS

If an applicant has the legal responsibility to maintain a navigable waterway, removal and disposal of incident-related debris that obstructs the passage of vessels is eligible. Debris removal is eligible to a maximum depth of 2 feet below the low-tide draft of the largest vessel that utilized the waterway prior to the incident. Any debris below this zone is ineligible unless it is necessary to remove debris extending upward into an eligible zone.

If a tree is still rooted to an embankment and is floating or submerged, the cost to cut the tree at the water's edge is eligible.

Debris removal from federally maintained navigable waterways is ineligible. The USCG and the USACE have specific authorities for removal of hazardous substances, vessels, and other obstructions from federally maintained navigable waterways.[256]

2. NON-NAVIGABLE WATERWAYS, INCLUDING FLOOD CONTROL WORKS AND NATURAL WATERWAYS

Debris deposited by the incident may obstruct a natural waterway that is not improved or maintained or a constructed channel, including flood control works. In these cases, removal of the debris from the channel is eligible if the debris poses an immediate threat to improved facilities/properties, such as when the debris:

- Obstructs, or could obstruct, intake structures;
- Could cause damage to structures, such as bridges and culverts; or
- Is causing, or could cause, flooding to improved public or private property during the occurrence of a flood that has a 20 percent chance of occurring in any given year (5-year flood).

Removal of the obstruction may be eligible in streams where debris removal might also be eligible under the Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWP)[257]. Each

[256] For more information, refer to: Mission Assignments (FP 104-010-3) | fema.gov.
[257] For more information, refer to: Emergency Watershed Protection | Natural Resources Conservation Service | usda.gov.

agency has different program eligibility requirements; therefore, FEMA, the recipient, and the applicant need to coordinate with NRCS prior to conducting work to maximize funding and ensure there is no duplication of benefits.

Debris removal from flood control works that were installed under the specific authority of NRCS and Public Law 83-566 (The Watershed & Flood Prevention Operations Program (WFPO), or Section 216 of Public Law 81-516, 33, U.S. Section 701b-1. is ineligible for PA funding, even if NRCS does not have sufficient funding or does not provide assistance.

Flood control works under the specific authority of NRCS are those that are part of the WFPO Program under PL 83-566WFPO Program.[258]

For flood control works that are eligible for the USACE Rehabilitation and Inspection Program (RIP),[259] debris removal is eligible for PA funding. USACE does not reimburse applicants for debris removal but conducts this activity when necessary.

3. IDENTIFYING DEBRIS IMPACT LOCATIONS

Applicants are responsible for identifying debris deposited by the incident that poses an immediate threat. Random surveys to look for debris, including surveys performed using side scan sonar, are ineligible. Satellite imagery or waterway soundings/bathymetric surveys showing the waterway pre-and post-disaster can substantiate that debris was deposited by the incident and was not pre-existing. If an applicant identifies an area of debris impacts and demonstrates the need for a survey to identify a specific immediate threat, PA funding for the survey in that location, including the use of side scan sonar, is eligible.

C. Privately-Owned Vehicles and Vessels on Public Property

Removal of privately-owned vehicles and vessels from public property is eligible if all of the following conditions are met:

- The vehicle or vessel blocks access to a public-use area;
- The vehicle or vessel is abandoned;
- The applicant follows applicable SLTT government ordinances or laws for private vehicle or vessel removal; and,
- The applicant documents the handling of the vehicle or vessel.

Applicants need to provide documentation to support it met these criteria.

A limited timeframe for vehicle and vessel storage is eligible if it is necessary to remove the item prior to being able to identify the owner. If the owner is identified, the applicant should work with private property owners to pursue and recover storage and removal costs and credit FEMA the federal share of any funds received.

[258] For more information, refer to: Watershed and Flood Prevention Operations (WFPO) Program | Natural Resources Conservation Service | usda.gov.
[259] For more information, refer to: Rehabilitation and Inspection Program | USACE.army.mil.

D. Disposal

FEMA provides PA funding for various costs related to disposing of debris. Applicants should dispose of debris in an efficient and cost-effective manner.

Vegetative debris is bulky and can consume a significant volume of landfill space. To minimize the use of landfill space, FEMA encourages applicants to reduce the volume of vegetative debris. Costs to reduce vegetative debris using methods, such as mulching, grinding, or burning are eligible. Reducing and/or recycling debris has financial and environmental advantages.

When removing sand, disposal of sand spoils on a public beach is eligible as part of the debris removal project when it is the most cost-effective method of disposal.

Certain types of construction and demolition debris are reusable or recyclable. Applicants should conserve landfill space by separating materials for reuse or recycling.

1. RECYCLING REVENUE

If an applicant receives revenue from recycling debris, FEMA reduces PA funding by the amount of revenue received. Applicants may deduct costs for administering and marketing the sale of the salvageable materials from the fair market value.

If a contract allows the contractor to take possession of salvageable material and benefit from its sale to lower bid prices, there is no salvage value to be recovered at the end of the project. Therefore, the applicant has no further obligation to FEMA.

2. TEMPORARY STAGING SITES

Establishing and operating a temporary staging site necessary for debris separation and reduction is eligible. The cost to lease property is eligible. Additionally, if the terms of the lease require that an applicant restore the leased property back to its condition prior to the applicant's use, the costs related to that restoration are also eligible as part of the category A project. If leased, applicants must provide the lease agreement.

3. HAND-LOADED TRUCKS AND TRAILERS

FEMA has determined that, for vegetative debris, hand-loaded trucks and trailers achieve approximately half the compaction level of mechanically loaded trucks and trailers. Therefore, FEMA only provides PA funding for 50 percent of the debris monitor's observed capacity of hand-loaded trucks and trailers carrying vegetative debris.

Similarly, trucks without solid tailgates cannot be compacted to full capacity. Therefore, FEMA only funds up to a maximum of 85 percent of the certified capacity for trucks without solid tailgates and would apply a 15 percent reduction to the total debris quantity.

Applicants must document the types and total quantity of hand-loaded debris, and the types and total quantity of debris hauled in trucks without solid tailgates and provide this information to FEMA to ensure appropriate reductions are taken for this debris.

4. LANDFILLS AND TIPPING FEES

Landfill tipping fees usually include fixed and variable costs, along with special taxes or fees assessed by the jurisdiction in which the landfill is located. Eligible tipping fee costs are limited to the variable and fixed costs that are directly related to landfill operations, such as recycling tax.

Eligible fixed costs for tipping fees include:

- Equipment;
- Construction;
- Permits;
- Landfill closure;
- Post-closure activities; and,
- Amortized costs for facilities that support the landfill.

Eligible variable costs for tipping fees include:

- Labor;
- Supplies;
- Maintenance; and,
- Operation of utilities.

The components of tipping fees that are not directly related to landfill operations, such as special taxes or fees related to other government services or public infrastructure, are ineligible as part of the tipping fee. When providing PA funding for tipping fees, FEMA removes any ineligible components.

Applicants may use a significant portion of the available capacity of a landfill to dispose of incident-related debris. Although FEMA provides PA funding for tipping fees, it cannot provide PA funding for the value of the loss of landfill capacity due to incident-related debris.

E. Monitoring Contracted Debris Removal Operations

Applicants must monitor all contracted debris removal operations to ensure that the quantities and work claimed are accurate and eligible. This includes documenting debris quantities by types, quantities reduced, reduction methods, and pickup and disposal locations.

Applicants may use force account resources (including temporary hires), contractors, or a combination of these for monitoring. It is not necessary, or cost-effective, to have professional engineers or other certified professionals perform debris monitoring duties. FEMA considers costs unreasonable when associated with the use of staff that are more highly qualified than necessary for the associated work. If an applicant uses staff with professional qualifications to conduct debris monitoring, it must document the reason it needed staff with those higher qualifications.

FEMA provides training to an applicant's force account debris monitors (including its temporary hires) upon request.

Eligible activities associated with debris monitoring include, but are not limited to:

- Field supervisory oversight;
- Monitoring contracted debris removal at both the loading and disposal sites;
- Compiling documentation, such as load tickets and monitor reports, to substantiate eligible debris; and,
- Training debris monitors on debris removal operations, monitoring responsibilities and documentation processes, and FEMA debris eligibility criteria.

The "Public Assistance Debris Monitoring Guide"[260] provides in depth guidance for monitoring debris removal operations, including eligibility, roles, resources, and activities.

F. Private Property Debris Removal

Debris removal from private property (e.g., privately-owned roads, privately-owned non-commercial property, or commercial property) is the responsibility of the property owner and is usually ineligible under the PA Program. In limited circumstances, based on the severity of the impact of an incident and whether debris on private property is so widespread that it threatens public health and safety or the economic recovery of the community, FEMA may determine that private property debris removal (PPDR) is eligible under the PA Program. In such cases, FEMA works with the SLTT governments to designate specific areas where PPDR, including private waterways, is eligible. The debris removal must be in the public interest, not merely benefiting an individual or a limited group of individuals. Figure 11. Debris on Public Property is an example of the level of debris impacts that may warrant FEMA assistance for PPDR.



Figure 11. Debris on Public Property

1. PPDR ELIGIBILITY DETERMINATION PROCESS

Pre-approval from FEMA is not required for applicants to begin PPDR work (including on privately-owned roads, privately-owned non-commercial, and commercial property). However, applicants must notify FEMA that PPDR is being conducted and identify the type of property on which the PPDR is being conducted (e.g., privately-owned roads, privately-owned non-commercial, or commercial property) so FEMA can ensure notifications are made to the necessary FEMA components, (including EHP), and federal partners. Given the limited eligibility of and the additional requirements related to PPDR on both non-commercial and commercial property, although not required, applicants are encouraged to obtain preliminary approval for the activity from FEMA prior to starting work.

For FEMA to evaluate eligibility of PPDR funding requests, applicants must submit written documentation to FEMA identifying the specific properties or areas of properties where PPDR activities occurred. Before FEMA will provide PA funding, the applicant must provide confirmation that it satisfied all legal processes, described below and obtained permission requirements from the property owners (rights-of-entry)

[260] For more information, refer to: *Public Assistance Debris Monitoring Guide*.

agreements to indemnify and hold harmless the Federal government. Additionally, the applicant must provide documentation to support that it obtained all necessary permits and complied with EHP requirements. FEMA only approves PA funding for PPDR if an applicant demonstrates all the following with sufficient documentation:

Table 22. Required Documentation and Information for PPDR

For Small and Large Projects
▪ Written documentation identifying the specific properties or areas of properties where PPDR occurred; ▪ A written statement from an authorized applicant official that: ○ Certifies the applicant has legal authority and responsibility to remove debris from private property; ○ Cites all applicable sources of authority (law, ordinance, code, contract, etc.); and, ○ Indemnifies the federal government for any claim arising from the debris removal. ▪ Documentation to show the work is eligible for PA funding.

These requirements are in addition to the guidance regarding debris-related documentation under Table 21. Required Documentation and Information for Debris Removal and Disposal.

i. Public Interest

Applicants must demonstrate that the PPDR was in the public interest.[261] This includes:

- The basis for the assertion that removing the debris from the private property locations requested was in the public interest. The assertion must be made by the state, Tribal Nation, territorial, county, or municipal government's public health authority or other public entity that has legal authority to assert that disaster-generated debris on private property constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at large.
- The established, specific legal requirements for declaring the existence of a threat to public health and safety.

Terminology

Public entity - An organization formed for a public purpose whose direction and funding are provided by one or more political subdivisions of the state.

FEMA evaluates the submission to determine if PPDR is in the public interest for any properties or area of properties for which an applicant has requested funding for debris removal. When evaluating PPDR funding requests, FEMA considers if the incident generated debris in quantities and/or types on non-commercial or commercial private property that is so widespread or of such magnitude that it creates a threat to public health, safety, or improved property. FEMA also considers factors, such as social vulnerability, the

[261] Stafford Act § 407; 42 U.S.C. § 5173; 44 C.F.R. § 206.224(b).

percentage of homes destroyed in the community or census designated area, community density, watershed exposure, the fire hazard severity zone (FHSZ) of the area, and the cost of hazardous debris removal.

2. DEBRIS REMOVAL FROM PRIVATE ROADS

Private roads are those that are not owned by, or operated by, or otherwise the legal responsibility of a public entity, such as orphan roads, roads in gated communities, or homeowners' association roads.

If the public has unrestricted access (e.g., no locks, gates, or guards) and frequently uses the private road, then removal and disposal of the debris is demonstrably in the public interest. This work includes debris placed at the curbside by residents. The applicant is generally not required to submit additional documentation demonstrating the debris removal is in the public interest.

If the public has restricted road access (e.g., behind locks, gates, or guards) or the private roads are unrestricted but rarely used by the public, then the applicant must demonstrate that such debris removal is in the public interest. FEMA has the authority to determine whether such debris removal is eligible.

Debris removal from private roads does not include debris on private driveways or parking lots. Debris clearance (e.g., push or cut and toss) for emergency access is eligible as category B work if it meets the criteria under the Emergency Access section in this chapter.

3. DEBRIS REMOVAL FROM PRIVATE NON-COMMERCIAL PROPERTY

Debris removal from private non-commercial property is usually not in the public interest because the debris does not typically represent an immediate threat to public health and safety.[262] If the incident generates debris quantities and/or types of debris on non-commercial property that is so widespread or of such magnitude that it creates an immediate threat to public health and safety, debris removal may be in the public interest. To determine if removal of debris from private residential property is in the public interest, FEMA evaluates the public health determination, and will consider:

- Whether the debris is located in open areas accessible to the public (e.g., in a yard with no fence or barrier next to a public sidewalk), located in maintained areas, or creating a health and safety hazard, such as a rodent infestation;
- Volume of debris;
- Height of debris;
- Number of houses and blocks with large volumes of debris; and,
- Amount of the public population affected.

4. DEBRIS REMOVAL FROM PRIVATE COMMERCIAL PROPERTY

Debris removal from commercial property is typically ineligible, as commercial businesses are expected to have insurance covering this. Applicants are advised to obtain written pre-approval from FEMA for any debris removal from commercial properties before starting work.

[262] 44 C.F.R. § 206.224

In rare and exceptional cases, such as when critical facilities are involved, restoration costs for damaged infrastructure in a small area are exceptionally high, or debris is heavily concentrated, the FEMA Regional Administrator may grant an exception. In these cases, applicants must meet the stated requirements.

Commercial property owners are not allowed to move or place debris from their properties onto public rights-of-way. Debris on public rights-of-way from the incident itself is eligible for removal, but debris deliberately moved there from commercial properties is not eligible.

5. DUPLICATION OF BENEFITS IN PRIVATE PROPERTY DEBRIS REMOVAL

Applicants must work with private property owners to pursue and recover insurance proceeds and credit FEMA the federal share of any insurance proceeds received.[263] In some circumstances, FEMA may provide Individual Assistance (IA) to individuals for debris removal; consequently, FEMA PA staff coordinates closely with IA staff to ensure FEMA does not fund the same work under both programs.

XIII. Emergency Protective Measures (Category B)

Emergency protective measures conducted before, during, and after an incident are eligible if the measures:

- Eliminate or lessen immediate threats to lives, public health or safety; or
- Eliminate or lessen immediate threats of significant additional damage to improved public or private property in a cost-effective manner.[264]

FEMA may require certification by federal or SLTT government officials that a threat exists, including:

- Identification and evaluation of the threat; and
- Recommendations of the work necessary to cope with the threat.[265]

A. Saving Lives and Protecting Public Health and Safety

Emergency protective measures save lives or protect public health and safety. Eligible emergency protective measures include, but are not limited to:

- Transporting and pre-positioning equipment and other resources for response;
- Flood fighting;
- Emergency Operations Center (EOC);
- Provision of emergency access;
- Provision of supplies and commodities;
- Medical care and transport;
- Evacuation and sheltering, including that provided by another state or Tribal Nation;
- Childcare services provided in support of emergency sheltering;

[263] Stafford Act § 312; 42 U.S.C. § 5155.
[264] 44 C.F.R. § 206.225(a)(3).
[265] 44 C.F.R. § 206.225(a)(2).

- Building safety inspections;
- Animal carcass removal;[266]
- Demolition of structures;[267]
- Debris clearance and removal;[268]
- Search and rescue to locate survivors, household pets, and service animals requiring assistance;
- Firefighting;
- Security, such as barricades, fencing, or law enforcement;
- Use or lease of temporary generators for facilities that provide essential community services;
- Dissemination of information to the public in an accessible and effective manner to provide warnings and guidance about health and safety hazards using various strategies, such as flyers, public service announcements, or newspaper campaigns;
- Searching to locate and recover human remains;
- Storage and interment of unidentified human remains; and,
- Mass mortuary services.[269]

The following are eligible under limited circumstances based on specific criteria described in each of the referenced sections:

- Increased costs related to operating a facility or providing a service as a result of the incident because of an increased demand for the services the facility provides;[270]
- Mosquito abatement;[271]
- Temporary relocation of essential services;[272] and,
- Snow-related activities[273] when specifically authorized in the declaration.

B. Protecting Improved Property

Eligible emergency protective measures to protect improved property include, but are not limited to:

- Constructing emergency berms or temporary levees to provide protection from floodwaters or landslides;
- Emergency repairs necessary to prevent further damage, such as covering a damaged roof to prevent infiltration of rainwater;
- Buttressing, shoring, or bracing facilities to stabilize them or prevent collapse;

[266] FEMA funds the removal of animal carcasses as category A if the removal is part of the applicant's overall debris disposal operation as opposed to a separate and distinct emergency protective measure operation under category B.
[267] FEMA usually reimburses demolition of a public structure as part of the permanent work project to replace the facility.
[268] Stafford Act 403(a)(3)(A).
[269] FEMA provides PA assistance for mass casualty management, including mass mortuary services, as part of recovery from an incident generating a large number of casualties. However, PA does not cover individual burial or funeral services. FEMA's Individual Assistance (IA) Funeral Assistance Program, if activated, may provide limited assistance to individuals and households.
[270] For more information, refer to Increased Operating Costs in Chapter 6.
[271] For more information, refer to Mosquito Abatement in this chapter.
[272] For more information, refer to Temporary Relocation of Essential Services in this chapter.
[273] For more information, refer to Snow-Related Activities in this chapter and Appendix K: Snow Declarations.

- Emergency slope stabilization to eliminate a threat of significant additional damage to improved public or private property;[274]
- Mold remediation to prevent further damage to the facility and its contents, such as removal of water damaged building materials;
- Removal and storage of contents from eligible facilities for the purpose of minimizing additional damage;
- Extracting water and clearing mud, silt, or other accumulated debris from eligible facilities if the work is conducted expeditiously for the purpose of addressing an immediate threat;[275] and,
- Taking actions to save the lives of animals that are eligible for replacement.[276]

C. Emergency Protective Measures on Private Property

In limited circumstances, FEMA may determine that emergency protective measures conducted on private property are eligible under the PA Program if:

- The immediate threat is widespread, affecting numerous homes and businesses such that it is a threat to the health and safety of the general public;
- The applicant has legal authority to perform the work; and,
- The applicant obtained rights-of-entry and agreements to indemnify and hold harmless the federal government.

Situations where this may occur are generally limited to:

- Demolition of unsafe private structures that endanger the public;[277]
- Animal carcasses removal;
- Installation of fiber-reinforced sheeting to cover damaged roofs, commonly referred to as Operation Blue Roof[278] (direct federal assistance only);
- Provision of emergency access;[279]
- Pumping of septic tanks or decontamination of wells causing a pollution threat;[280]
- Building safety inspections);[281] and,
- Stabilizing a slope.[282]

Upon submittal of its claim, an applicant must include the following support documentation for the work to be eligible:

- A detailed explanation documenting the applicant's legal authority and responsibility to enter private property;
- The basis for the determination that a threat exists to the general public; and,

[274] 44 C.F.R. § 206.225(a)(3).
[275] If the work is only necessary to restore the facility, it is permanent work, not emergency work.
[276] For more information, refer to Animals in Chapter 8.
[277] For more information, refer to Demolition of Private Structures in this chapter.
[278] For more information, refer to Operation Blue Roof (DFA Only) in this chapter.
[279] For more information, refer to Emergency Access in this chapter.
[280] For more information, refer to Hazardous Materials in this chapter.
[281] For more information, refer to Safety Inspections in this chapter.
[282] For more information, refer to Slope Stabilization in this chapter.

- Copies of the rights-of-entry and agreements to indemnify and hold harmless the federal government.

If the above criteria are not met, the private property owner may be eligible for assistance under FEMA's Individual Assistance (IA) Program. FEMA PA and IA staff will coordinate closely to ensure FEMA does not fund the same work under both programs.

D. Emergency Protective Measures Conducted by Private Nonprofit Organizations

For eligible PNPs, emergency protective measures are generally limited to activities associated with preventing damage to an eligible facility and its contents.

Emergency services are the responsibility of SLTT 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. However, when a PNP provides emergency services at the request of, and certified (e.g. in a written agreement or contract) by, the legally responsible SLTT government entity, FEMA provides PA funding through that government entity as the eligible applicant. These services include:

- Fire and rescue activities;
- Animal control;
- Emergency ambulance service for evacuation;
- 211 call services, if tracked and related to eligible work; and,
- Other similarly urgent governmental services.

PNPs that own or operate a medical or custodial care facility are eligible for direct reimbursement of costs related to patient evacuation. In limited circumstances, FEMA may also reimburse a PNP directly when essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital or a PNP sewage or water treatment plant.

FEMA reimburses a PNP volunteer fire department directly as an eligible applicant, if:

- The PNP volunteer fire department operates based on an established agreement with an SLTT government; and,
- The agreement certifies the PNP volunteer fire department is legally authorized to provide emergency services in areas of coverage specifically designated by the SLTT government.

E. Pre-Positioning Resources

Costs related to pre-positioning of resources, specifically equipment and supplies, for the declared incident are eligible if the resources are used in the performance of eligible emergency work. For more information regarding pre-positioning of labor, see Applicant (Force Account) Labor in Chapter 6.

Additionally, costs related to pre-positioning equipment and supplies outside of the declared area are eligible when related to conducting search and rescue, evacuation, sheltering, or providing emergency medical care during the evacuation period (such as ambulances and buses) provided the resources were ultimately used for the declared area.

F. Increased Operating Costs

Applicants may incur increased costs related to operating a facility or providing a service as a result of the incident because of an increased demand for the services the facility provides.

These additional costs are only eligible if:

- The services are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property in response to the declared incident;
- The costs are for a limited timeframe based on the emergency or exigency of the circumstances; and,
- The applicant tracks and documents the additional costs.

Increased operating costs that are eligible for a limited time, include but are not limited to, costs for:

- Water testing and treatment, including supplies, in the immediate aftermath of the incident to counter a specific threat; and,
- Fuel for increased use of pumps (e.g., pumping station) which may include electricity utility fees for pumps operated by electric motors. Eligibility is subject to policy regarding applicant-owned and purchased equipment (see Chapter 6: Cost Eligibility).

Increased operating costs that are ineligible, even for a limited time, include but are not limited to, costs for:

- Patient care, except as noted under Emergency Medical Care in this chapter;
- Administrative activities;
- Provision of food, except as noted under Supplies and Commodities and Meals in this chapter;
- Costs related to staff that were retained to work additional hours, but did not perform eligible emergency work (e.g., staff working additional shifts due to other staff's inability to get to work);
- Obtaining electrical power from an alternate source;
- Obtaining water from an alternate source;
- School make-up days, including contracted costs for bus service for make-up days;
- Provision of school bus service including fuel or mileage for transporting students from alternate locations or to alternate schools or temporary facilities; and,
- Modification or construction of a new landfill to add landfill capacity.

For PNPs, operating costs are generally ineligible even if the services are emergency services, unless the PNP performs an emergency service at the request of and certified by the legally responsible government entity. In such case, FEMA provides PA funding through that government entity as the eligible applicant.

G. Emergency Public Transportation and Communication (DFA Only)

An SLTT government may provide emergency communication services and public transportation when existing systems are damaged to the extent vital functions of community life or incident response are disrupted. The costs of these services are ineligible for reimbursement. However, FEMA may provide short-

term DFA for these services.[283] Transportation costs for the purpose of evacuation are eligible for reimbursement as described under Evacuation and Sheltering in this chapter.

H. Flood Fighting

Flood fighting activities may include, but are not limited to, sandbagging, dewatering behind a levee by breaching or pumping, or increasing the height of a levee. These activities are eligible if necessary to reduce an immediate threat to life, public health and safety, or improved property. These activities are eligible even if they are associated with a facility that is eligible for the USACE RIP, as USACE cannot reimburse applicants for flood fighting.

The repair of deliberate breaches made by the applicant to accomplish dewatering is eligible as part of the emergency work project.

Dewatering agricultural and natural areas behind levees and other water control structures is ineligible.

I. Emergency Operations Centers

An applicant may use its EOC to direct and coordinate resources and response activities for a period of time. Response activities conducted at EOCs are eligible provided they are associated with eligible work. Costs associated with operating the EOC[284] are also eligible, including, but not limited to:

- Increased utility costs;
- Costs to lease a facility;
- Supply costs; and,
- Meal costs, as described under Meals in this chapter.

J. Emergency Access

There are times when the declared incident causes damage or debris blockage to access routes to an essential community service, or to a community with survivors. If the extent of damage or blockage makes these areas cut off or isolated, work related to providing access is eligible. This includes clearing debris from or conducting emergency repairs to an access facility, such as a road or bridge. Eligible work is limited to what is necessary for the access to remain passable. Any debris removal or additional debris clearance is category A and funded based on the criteria under Debris Removal (Category A) in this chapter.

Private roads are those that are not owned or operated by or otherwise the legal responsibility of a local, county, tribal, territorial, state, or federal entity. Emergency road clearance includes pushing or clearing debris from private roads, including orphan roads, roads in gated communities, homeowners' association roads, etc. Debris clearance must be in the public interest and is eligible if the debris impairs emergency access by local emergency responders, ambulances, fire, and police. For example, downed trees may be cut and moved off the roadway. Eligible work is limited to that necessary for roads to remain passable but might

[283] Stafford Act §§ 418 and 419; 42 U.S.C. §§ 5185 and 5186; 44 C.F.R. § 206.225(c) and (d).
[284] Additional information regarding the function and requirements of an EOC may be accessed at: NIMS Components - Guidance and Tools | fema.gov.

include removal and disposal during the initial pass as necessary to ensure emergency access. Applicants are not required to submit documentation demonstrating that debris clearance is in the public interest.

Applicants must complete all necessary legal processes or obtain rights-of-entry and agreements to indemnify and hold harmless the federal government.

Emergency repairs to privately-owned roads, including those within gated communities, are eligible only when all of the following conditions are met:

- There is no other access point;
- Repair of the damage economically eliminates the need for temporary housing and sheltering; and,
- The applicant completes all legal processes and obtains rights-of-entry and agreements to indemnify and hold harmless the federal government.

K. Hazardous Materials

Removal and disposal of pollutants and hazardous substances are eligible. Eligible activities include:

- Separation of hazardous materials from other debris;
- Specialized procedures for handling and disposing of hazardous materials;
- Control or stabilization of the hazardous materials;
- Pumping water contaminated with the hazardous materials; and,
- Clean-up and disposal of the hazardous materials.

Short-term testing for contaminants in water, air, or soil necessary to ensure elimination of the immediate threat is eligible; however, testing for the purpose of long-term cleanup actions is ineligible.

Applicants must comply with federal and SLTT government environmental requirements for handling hazardous materials. Before handling or disposing of hazardous materials, applicants should contact the appropriate federal or SLTT agency to obtain required permits, notify proper agencies of hazardous materials storage, and coordinate the creation of any required facility specific emergency response plans for spills, safety, and proper handling. Additionally, appropriate certified hazardous waste specialists should handle, capture, recycle, reuse, or dispose of hazardous materials. When providing PA funding for work involving the handling of hazardous materials, FEMA must ensure compliance with the Resource Conservation and Recovery Act (RCRA).[285]

Additionally, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)[286] authorizes the federal government to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Under CERCLA and the Clean Water Act (CWA),[287] EPA and the USCG have the authority to respond to actual or potential discharges of oil, hazardous substances, pollutants, and contaminants that may present an imminent and substantial danger to public

[285] For more information, refer to: Resource Conservation and Recovery Act | epa.gov.
[286] For more information, refer to: Comprehensive Environmental Response, Compensation, and Liability Act and Federal Facilities | epa.gov.
[287] For more information, refer to: Clean Water Act | epa.gov.

health or welfare. EPA has responsibility for responses in the inland zone and the USCG has responsibility for responses in the coastal zone.[288] Response actions may include containment, stabilization, decontamination, collection (e.g., orphan tanks, drums), and disposal.

Terminology

Inland zone is the environment inland of the coastal zone, excluding the Great Lakes and specified ports and harbors on inland rivers. Precise boundaries are identified in federal regional contingency plans.

L. Supplies and Commodities

Costs related to applicants purchasing supplies or using their own stock to perform emergency work are eligible and reimbursed in accordance with the Supplies section in Chapter 6. Examples include, but are not limited to, safety equipment, personal protective equipment, radios, power tools, sand, and tarps.

Purchasing and packaging lifesaving and life-sustaining supplies and commodities and providing them to the impacted community are eligible. Examples of such commodities include, but are not limited to, food, water, ice, personal hygiene items, cots, blankets, tarps, plastic sheeting for roof damage, and generators, as well as food, water, bowls, and containment for household pets and service animals. The cost of delivering these same commodities to unsheltered residents in communities where conditions constitute a level of severity such that these items are not easily accessible for purchase is also eligible. Provision of mass care, emergency feeding operations by SLTT or PNP organizations are eligible in the context of distributing supplies and commodities. This includes food and water for household pets.



Figure 12. Distribution of Supplies

The cost of leasing distribution and storage space for the commodities is also eligible. Supplies and equipment purchased to provide emergency protective measures may be subject to disposition requirements in accordance with the Disposition of Equipment and Supplies section in Chapter 6.

M. Meals

Applicants often provide meals for emergency workers. Provision of meals, including beverages and meal supplies, for employees and volunteers engaged in eligible emergency work, including those at EOCs, is eligible provided the individuals are not receiving per diem and one of the following circumstances apply:

[288] For more information, refer to: *FEMA POLICY: Mission Assignments FEMA Policy #104-010-3*.

- Meals are required based on a labor policy or written agreement that meets the requirements under Chapter 6: Cost Eligibility;
- Conditions constitute a level of severity that requires employees to work abnormal, extended work hours without a reasonable amount of time to provide for their own meals; or
- Food or water is not reasonably available for employees to purchase.

FEMA only reimburses the cost of meals that are brought to the work location and purchased in a cost-effective and reasonable manner, such as bulk meals. FEMA does not reimburse costs related to group outings at restaurants or individual meals. FEMA reimburses meal costs as part of a contract in accordance with the contract terms provided it meets the requirements under Procurement and Contracting Requirements in Chapter 6.

N. Emergency Medical Care

When the emergency medical delivery system within a declared area is destroyed, severely compromised, or overwhelmed, FEMA funds extraordinary costs associated with operating emergency rooms and with providing temporary facilities for emergency medical care of survivors. Costs associated with emergency medical care should be customary for the emergency medical services provided. Costs are eligible for up to 30 days from the declaration date unless the applicant obtains FEMA approval for any time extension, which should include a detailed justification for the continued need and an analysis of options for providing care, including the costs for each option. The Assistant Administrator for the Recovery Directorate at FEMA Headquarters has the authority to approve this policy exception.

Eligible emergency medical care includes, but is not limited to:

- Triage and medically necessary tests and diagnosis;
- Treatment, stabilization, and monitoring;
- Patient assessment and provision of first aid;
- A one-time 30-day supply of prescriptions for acute conditions or to replace maintenance prescriptions;
- Vaccinations for survivors and emergency workers to prevent outbreaks of infectious and communicable diseases;
- Durable medical equipment;
- Consumable medical supplies;
- Temporary facilities, such as tents or portable buildings for treatment of survivors;
- Leased or purchased equipment for use in temporary medical care facilities;
- Security for temporary medical care facilities; and,
- Use of ambulances for distributing immunizations and setting up mobile medical units.

Terminology

The following types of equipment and supplies are intended for the treatment of an illness or injury, to prevent a patient's further deterioration, or for the functional needs support of persons living with disabilities.

Durable medical equipment is reusable medical equipment including, but not limited to:

- Oxygen equipment;
- Wheelchairs;
- Walkers;
- Hospital beds; and,
- Crutches,

Consumable medical supplies are medical supplies generally for one-time use only, including, but not limited to:

- Medications (may include Naloxone [Narcan]);
- Diapers;
- Adult incontinence briefs; and,
- Bandages.

FEMA determines the reasonableness of these costs based on Medicare's cost-to-charge ratio.

FEMA does not provide PA funding for these costs if underwritten by private insurance, Medicare, Medicaid, a pre-existing private payment agreement or otherwise covered by another funding source.[289] Applicants must take reasonable steps to provide documentation on a patient-by-patient basis verifying that insurance coverage or any other source funding, including private insurance, Medicaid, or Medicare, has been pursued and does not exist for the costs associated with emergency medical care and emergency medical evacuations.

Terminology

Cost-to-charge ratio - A ratio established by Medicare to estimate a medical service provider's actual cost in relation to its charges.

Ineligible costs include:

- Medical care costs incurred once a survivor is admitted to a medical facility on an inpatient basis;

[289] Stafford Act § 312; 42 U.S.C. § 5155.

- Medical care costs incurred beyond immediate emergency medical care, such as those associated with follow-up treatment or long-term medical treatment; and,
- Administrative costs associated with the treatment of survivors.

O. Evacuation and Sheltering

1. EVACUATION

Transportation to evacuate (and subsequently return) survivors, household pets,[290] service animals,[291] assistance animals,[292] luggage, and durable medical equipment is eligible. This includes emergency medical transportation and evacuation. The mode of transportation should be customary and appropriate for the work required. Evacuation of exhibition or agricultural/livestock animals and reptiles, except turtles, is not eligible.

Terminology

Household pets are domesticated animals that:

- Are traditionally kept in the home for pleasure rather than for commercial purposes;
- Can be transported through commercial carriers; and,
- Can be housed in temporary facilities.

Examples are dogs, cats, birds, rabbits, rodents, and turtles.

Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing purposes.

Under the Americans with Disabilities Act (ADA), a **service animal** is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or provide emotional support that alleviates identified symptoms or effects of a person's disability. Although dogs are the most common type of assistance animal, other animals can also be assistance animals.

Eligible activities include, but are not limited to:

[290] The definition of household pets was developed by PA for the purpose of determining eligibility of work and costs under the PA grant program and does not impose restrictions on what animals a jurisdiction may choose to evacuate and/or shelter.
[291] Service animals are defined by the Department of Justice (DOJ) and more information may be accessed at ADA 2010 Revised Requirements: Service Animals; "In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities."
[292] The definition for assistance animals was developed based on information from U.S. Department of Housing and Urban Development (HUD).

- Transferring patients from inoperable, compromised, or overwhelmed eligible medical or custodial care facilities to another medical facility or to an appropriate shelter facility;
- Transferring patients back to original medical or custodial care facility, when appropriate;
- Transporting survivors, including sheltered survivors, who require emergency medical care to and from the nearest existing or temporary medical care facility equipped to adequately treat the medical emergency. Transport may include emergency air, sea, or ground ambulance services if necessary;
- Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide one-time transportation to evacuate survivors and their household pets and service and assistance animals to evacuation facilities or emergency shelters from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors;
- Paratransit transportation services, such as vans, minibuses, and buses (including accessible vehicles) to transport senior citizens, individuals with disabilities (including mobility disabilities) or access and functional needs, individuals in nursing homes and assisted-living facilities, and homebound individuals impacted by the incident;
- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals;
- Provision of food and hydration during transport;
- Provision of emergency medical care during transport, including emergency medical personnel and supply costs;
- Stabilization of individuals injured during evacuation; and,
- Preparation necessary in advance of an incident for evacuations in threatened areas including mobilization of ambulances and other transport equipment.



Figure 13. Staging Area with Ambulances

Contracts for staging ambulance services must be part of the state, territorial, Tribal Nation, or regional evacuation plan. Costs of staging ambulances are eligible even if the incident does not impact the area normally served by those ambulances. PA funding for activating, staging, and using ambulance services ends when any of the following occurs:

- FEMA and the state, Tribal Nation, or territory determines that the incident did not impact the area where it staged ambulances;
- Evacuation and return of medical patients and individuals with disabilities or access and functional needs is complete; or
- The immediate threat caused by the incident has been eliminated or lessened and the demand for services has returned to normal operation levels.

FEMA does not provide funding for costs related to:

- Ambulance services that are covered by private insurance, Medicare, Medicaid, or a pre-existing private payment agreement;[293] and,

[293] Stafford Act § 312, 42 U.S.C. § 5155.

- Self-evacuee transportation.

2. SHELTERING

FEMA provides PA funding to SLTT government applicants for costs related to emergency sheltering for survivors, and their household pets,[294] service animals,[295] and assistance animals. Although SLTT governments may contract with other sheltering providers for such services, FEMA only provides PA funding directly to the SLTT government as it is legally responsible for the work.

Emergency sheltering is meant to provide disaster survivors with safe, sanitary, and secure shelter during emergencies in facilities that are intended to provide temporary refuge for all members of the community, including children and adults requiring functional needs' support services. Typically, emergency sheltering is congregate. Congregate sheltering may provide overnight accommodation operating 24/hours a day or operate during limited hours to provide relief from extreme temperature weather events and provide shelter as either a cooling or warming center.

i. Congregate Sheltering

Congregate shelter funding includes reimbursement for eligible costs related to the shelter facility, shelter staff, shelter supplies and commodities, and shelter services. These eligible costs for congregate sheltering are based on the type of shelter and the specific needs of the sheltered survivors.

Eligible costs for congregate sheltering are covered in more detail within the following subsections. If any of the items listed are donated, including labor, applicants may offset the non-federal cost share of their eligible emergency work projects in accordance with Donated Resources in Chapter 6. Eligible costs are only reimbursed for the time the facility is actively used to shelter disaster victims.

Congregate sheltering costs not listed in the four groupings below may be eligible for reimbursement on an incident specific basis. Applicants should consult FEMA PA staff for guidance if items not listed below need to be considered for eligibility.

a. Congregate Shelter Facility Costs

Eligible congregate shelter facility costs include:

- Facility lease or rent, including space for food preparation;
- Utilities, such as power, water, telephone, and internet service;
- Minor facility modifications if necessary to make the facility:
  - Habitable,

[294] The definition of household pets was developed by PA for the purpose of determining eligibility of work and costs under the PA grant program and does not impose restrictions on what animals a jurisdiction may choose to evacuate and/or shelter.
[295] Service animals are defined by the Department of Justice (DOJ), and more information may be accessed at ADA 2010 Revised Requirements: Service Animals; "In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities."

- Compliant with the Americans with Disabilities Act (ADA),[296]
- Functional to support ancillary services, such as a childcare facility; or
- Functional as a household pet shelter;

- Restoration to return the facility to its condition prior to use;[297]
- Generator costs; and,
- Secure storage space for medical supplies.

If an eligible SLTT government applicant owns or leases the shelter facility, and a volunteer agency operates the shelter, the facility costs described above are eligible. However, the labor costs for the volunteer agency's workers are ineligible (except as a donated resource in accordance with the criteria under Donated Resources in Chapter 6).

b. Congregate Shelter Staff Costs

Eligible shelter staff costs for congregate facilities include:

- Medical staff;
- Personal assistance service staff;
- Veterinary and animal care staff;
- Public information officer;
- Social workers (for crisis intervention/psychological first aid, and/or possibly to support transition out of the shelter for acute care);
- Food service workers;
- Custodial and facilities staff; and,
- National Guard personnel.[298]

c. Congregate Shelter Supplies and Commodities

Eligible items are those needed for, and used directly on, the declared incident and are reasonable in both cost and need. Eligible supplies and commodities for congregate shelters include:

- Hot and cold meals, snacks, beverages, and related supplies for survivors;
- Cooking and serving supplies;
- Food, water, and bowls for household pets and service and assistance animals;
- Durable medical equipment;
- Consumable medical supplies;
- Medication for animal decontamination and parasite control;
- Infant formula, breast feeding/chest feeding support items, baby food, and diapers;

[296] The applicant should ensure that the facility is in compliance with the ADA standards.
[297] If more than cleaning and minor repairs to the building are needed, applicants should consult FEMA regarding work eligibility.
[298] For more information, refer to the National Guard section in Chapter 6.

- Refrigerators, microwaves, and crock pots;
- Cots, cribs, linens, blankets, pillows, tables, and chairs;
- Crates, cages, leashes, and animal transport carriers;
- Personal hygiene kits with items, such as shampoo, soap, toothpaste, a toothbrush, towels, and washcloths;
- Animal cleaning tables and supplies;
- Televisions or radios (one per 50 sheltered survivors);
- Basic cable service;
- Computers (one per 25 shelterees);
- Internet service, including wi-fi;
- Washers and dryers (one of each per 50 shelterees); and,
- Toys and books.

d. Congregate Shelter Services

Shelter services are only eligible for the time the facility is actively used to shelter survivors. Eligible shelter services for congregate facilities include:

- Shelter management;
- Supervision of paid and volunteer staff;
- Cleaning the shelter, linens, and animal crates;
- Shelter safety and security;
- Use of equipment, such as ambulances, buses, trucks, or other vehicles, to provide sheltering support;
- Phone banks and Internet access for survivors;
- Care for survivors with disabilities or access and functional needs, including the provision of the following personal assistance services:
  - Grooming, eating/feeding, walking, bathing, toileting, dressing, and undressing;
  - Transferring (e.g., movement between a cot and wheelchair or wheelchair to restroom facilities);
  - Maintaining health and safety, including serving as accessible cooling or warming center;
  - Assisting with self-administering medications; and
  - Communicating or accessing programs and services (e.g., translation and interpretation services for individuals with limited English proficiency or accessible communication services for individuals with disabilities).
- Emergency medical, crisis intervention/psychological first aid, and veterinary services for sheltered survivors, household pets, and service and assistance animals, including:
  - Emergency and immediate life stabilizing care, including necessary prescriptions (not to exceed a 30-day supply);
  - Triage, medically necessary tests, diagnosis, treatment, stabilization, and monitoring;
  - Patient assessment;

- Provision of first aid, health information, and referral to acute care facilities as necessary;
- Care for evacuees with chronic conditions;
- Administering vaccinations to sheltered survivors and workers for transmissible or contagious diseases, including, but not limited to, tetanus and hepatitis;
- Administering vaccinations to household pets, and service and assistance animals, for transmissible or contagious diseases, including, but not limited to, Bordetella (kennel cough). The vaccinations need to be effective while the animal is in the shelter;
- Provision of durable medical equipment (DME) and consumable medical supplies (CMS) to support shelter residents;[299]
- Provision of crisis intervention/psychological first aid in support of emotional distress, and referral to other behavioral health and substance use health care services and facilities outside the congregate shelter environment as necessary; and,
- Medical waste disposal.

- Outpatient costs for sheltered survivors requiring emergency life-sustaining treatment not available at the shelter for the period of time that a survivor is housed in the shelter. Eligible outpatient services are limited to:
  - Physician services in a hospital outpatient department, urgent care center, or physician's office;
  - Related outpatient hospital services and supplies, including X-rays, laboratory and pathology services, and machine diagnostic tests; and,
  - Local professional transport services to and from the nearest hospital equipped to adequately treat the emergency.
- Sheltering self-evacuees (self-evacuee transportation costs are ineligible); and,
- Costs paid to the American Red Cross (ARC) or other non-governmental organizations (NGOs) to operate shelters under a written agreement. Costs that ARC or other NGOs incur under their own organizational mission (i.e., independent of any federal or SLTT request) are ineligible for reimbursement.

Note: Transportation of shelter residents to and from (other than for the medical purpose referenced above) the shelter is not an eligible sheltering activity. Additionally, costs incurred in the provision of disaster case management and/or mental/behavioral health services are ineligible unless the mental/behavioral health services are provided as an accommodation to survivors with disabilities, services in the NCS environment beyond "crisis intervention/psychological first aid" would require referral or transfer to a medical facility for treatment of an acute condition.

ii. Non-Congregate Sheltering

FEMA may reimburse costs related to emergency sheltering provided in non-congregate environments under limited and exigent circumstances. Non-congregate sheltering does not require pre-approval when conducted in traditionally operated facilities limited to hotels, motels, dormitories, and retreat camps, which offer an increased level of privacy over congregate sheltering. NCS activity in any other facility (e.g., recreation vehicles, including travel trailers; condominiums; short-term rentals, including Airbnb; ships)

[299] Reference the list of DME & CMS located under Emergency Medical Care in this chapter.

requires FEMA pre-approval by the Assistant Administrator for the Recovery Directorate at FEMA Headquarters.

Applicants are required to notify FEMA Headquarters and their Regional Administrator, through the recipient, within five days of initiating NCS operations for a declared incident. If sheltering is conducted prior to a federal declaration, then the notification requirement applies as five days post declaration.



Examples: Exigent Circumstances where NCS may be Considered

NCS will be considered for approval in limited, exigent circumstances, such as when congregate shelter facilities are:

- Not available due to the nature of the incident (e.g., identified shelter facilities were damaged by the incident);
- Insufficient to meet the need for sheltering; or,
- No longer available for use if owners of facilities used as congregate shelters require their return to their routine purpose or use, resulting in cessation of shelter operations.

When providing NCS, as a condition of assistance, recipients and applicants must comply with all statutes, regulations, and EOs, including those that require impartial and fair delivery of FEMA funding to all communities. FEMA monitors compliance with these laws when granting assistance. Failure to adhere to these laws may result in the termination of or refusal to grant or continue providing federal financial assistance.

a. Requests for Non-Congregate Sheltering

Applicants must submit written requests for work and costs related to NCS in non-traditionally operated facilities (e.g., recreation vehicles, including travel trailers; condominiums; short-term rentals, including Airbnb; ships) through the recipient and obtain FEMA approval prior to sheltering survivors. At a minimum, an applicant should include the following information in its request:

- Justification for the necessity of non-congregate sheltering;
- Whether the state, Tribal Nation, or territorial government has requested the Transitional Sheltering Assistance (TSA) from FEMA's Individual Assistance (IA) Program;[300]
- The type of non-congregate sheltering available and which type the applicant intends to use;
- An analysis of the available options with the associated costs of each option; and
- The timeframe requested (i.e., date of activation and length of time projected for NCS operations).

[300] FEMA's Transitional Sheltering Assistance provides short-term sheltering for survivors transitioning from emergency shelters to temporary or permanent housing solutions. Additional information is available in FEMA's *Individual Assistance Program and Policy Guide*.

While selecting the location of NCS facilities, applicants are encouraged to consider community demographics to ensure all populations have ready access to sheltering.

To establish and conduct NCS in non-traditional facilities, such as recreational vehicles (RVs), applicants must request this specifically. Such requests must be approved by the Assistant Administrator for the Recovery Directorate at FEMA Headquarters. NCS provided in any setting other than traditional facilities (i.e., hotels/motels, dormitories, and retreat camps) will be subject to additional disaster-specific requirements and guidance issued by FEMA.

FEMA limits any NCS approval to that which is reasonable and necessary to address the needs of the incident. FEMA determines the eligible costs based on the contractual agreement, including reimbursement for repairing damage if it is the applicant's legal responsibility based on the facility use agreement or lodging services contract.

If FEMA approves the request, recipients must provide sufficient data and documentation to establish eligibility (including the need for NCS resulting from the disaster, reasonableness, and costs).

b. Eligible Costs for Non-Congregate Sheltering

NCS costs are based on a per night, per room amount. Unlike congregate sheltering, funding for NCS does not include separate reimbursement for facility, staff, service, or supply costs. Costs for items or services associated with NCS are eligible if included within the NCS per night, per room charges.

Generally, feeding support and shelter support services are limited to the initial 30 days of NCS operations. These support services are only eligible for a longer period of time when routine access to food, other essential supplies and commodities, and support services are disrupted by the disaster incident, and clearly documented when an applicant seeks reimbursement.

Limited funding for casework in support of disaster survivor's transition to temporary or long-term housing options may be eligible.

If applicants are uncertain whether specific NCS-related costs would be considered eligible, they are encouraged to seek guidance from FEMA PA regional staff before incurring such costs.

c. Ineligible Costs for Non-Congregate Sheltering

Ineligible costs include:

- Costs associated with ancillary services (e.g., room service, pay-per-view movies, parking fees, or other costs for *à la carte* amenities);
- Costs related to reserving rooms or deploying facilities (e.g., RVs as NCS) that go unoccupied by an identified, displaced disaster survivor individual or household requiring sheltering assistance;
- Costs related to any expense beyond a traditional per night, per room charge when providing NCS via hotel, motel, dormitory, or retreat camp (this includes damages to the facility by the disaster survivors); and
- Costs incurred in the provision of disaster case management and/or mental/behavioral health services.

d. Survivor Insurance and Non-Congregate Sheltering

Survivors being sheltered in NCS facilities may have homeowner's insurance coverage. Such coverage does not constitute a duplication of benefits even if the individual's or household's insurance includes additional living expenses or loss of use coverage for their home. This is based on NCS being an emergency protective measure to protect the health and safety of the public at large, as opposed to being a benefit directly to an individual or household. Further, homeowners' insurance policies typically include additional living expenses as an expense that overall insurance proceeds may cover, as opposed to a specific line item dedicated to that specific expense.

e. Time Extensions for Non-Congregate Sheltering

When applicants anticipate that the need for NCS will exceed the approved time period, they must obtain FEMA approval for any time extensions. These time extensions are granted in 30-day increments. NCS conducted for more than 30 days is subject to the criteria in the NCS Work Eligibility Requirements section below.

Applicants must submit a written time extension request through the recipient to the FEMA Regional Administrator. This request should include a detailed justification for the continued need and a revised analysis of options, including the costs for each option. Applicants should submit time extension requests at least seven calendar days before the expiration date of the currently approved NCS period of performance.

The Regional Administrator has the authority to approve time extensions for traditional and non-traditional NCS for up to 6 months from the date of declaration. All NCS activities beyond the initial 6 months require approval by the Assistant Administrator of Recovery at FEMA Headquarters.

f. NCS Work Eligibility Requirements

If applicants request an extension of NCS activities beyond the initial period of performance, NCS work eligibility will be determined based on the criteria detailed below. For NCS conducted for more than 30 days, recipients and applicants are required to use data regarding the individuals and households sheltered to ensure that only individuals and households with a demonstrated need for continued emergency sheltering remain in NCS facilities.

Only non-congregate sheltering that is provided to individuals and households who align with the following criteria is considered PA eligible work beyond the initial period of performance. To be eligible for NCS beyond the first 30 days, each household must:

- Be in an area (county or parish) designated for both the Individual Assistance (IA) and PA Programs;
- Be registered with IA for disaster assistance;
- Have not requested to withdraw its IA registration;
- Be able to document pre-disaster status as an owner or renter of the primary residence; and
- Have their primary residence determined to be uninhabitable due to incident-caused damage or inaccessible due to the ongoing incident.

Applicants may determine a household's habitability status using IA information, home assessment information, or a habitability assessment process developed by the applicant. Applicants must submit the habitability determination method with the time extension request. Additionally, applicants should maintain information about the basic habitability for each household in NCS during the period for which they are requesting a time extension.

g. Data Collection, Management, and Reporting During NCS Operations

To effectively manage NCS operations and ensure that only individuals and households with a demonstrated need for continued emergency sheltering remain in NCS facilities, applicants are required to collect, compile, and report on information from disaster survivors housed in NCS. Applicants conducting NCS activities must establish and maintain a reporting system that captures the following data elements to ensure eligibility of the work and associated costs:

- FEMA IA Registration ID (if available);
- Head of household first and last name and phone number (mobile or other);
- Number of disaster survivor households and individuals sheltered in NCS by county;
- Damaged dwelling street address, city, state, zip code;
- Pre-incident primary-residence habitability status
- Number of rooms/NCS shelter units occupied by disaster survivors by county;
- Number of rooms
- NCS shelter check in and out date;
- Shelter site identification (number or name); and,
- The counties in which NCS is being conducted.

Applicants should inform individuals and households that the above collected information will be shared with FEMA.

FEMA PA staff will not collect the data on behalf of the recipient or applicant. FEMA expects recipients to ensure applicants are prepared to provide information substantiating eligibility and submit the defined data elements to FEMA on a weekly basis.

Applicants are expected to provide recipients with data reporting the first week of NCS operations and weekly thereafter until the NCS operations have concluded. This reporting supports project management and facilitates the transition of disaster survivors to longer-term housing solutions or out of NCS. Applicants may opt to provide more frequent reporting and should provide an updated report with any time extension requests.

Recipients are required to submit this weekly report information to the FEMA Data Sharing Support Box[301]. FEMA's Recovery Reporting and Analytics Division (RRAD) utilizes these data points and cross-checks them against disaster survivors receiving Individual Assistance to: 1) ensure the continued need for sheltering

[301] The FEMA Data Sharing Support Box can be reached at: fema-recovery-rad-data-sharing-support@fema.dhs.gov.

services; and 2) prevent duplication of benefits between the PA and IA programs. RRAD provides reports based on this information back to recipients, PA, and IA to enable effective management of the NCS population. Aggregated information, excluding personally identifiable information (PII), is also provided to PA senior staff upon request for inclusion as support for NCS projects.

The recipient and applicant must comply with the above described NCS data reporting requirements to determine eligibility and to help prevent fraud, waste, or abuse. FEMA, the applicant, and the recipient (including its contractors) may need to enter into information sharing access agreements (ISAAs) to coordinate data sharing of PII between the recipient, applicant, and FEMA. The recipient, applicant, and their contractors must abide by all terms and conditions of any relevant ISAA or data sharing addendum (DSA) to the FEMA state/Tribal Nation/territory agreement.

3. HOST-STATE OR HOST-TRIBE EVACUATION AND SHELTERING

If the impacted state or Tribal Nation (impact-state or impact-tribe) has evacuation and congregate sheltering needs beyond its ability to address within its jurisdictional area, it may request assistance either from another state or Tribal Nation (host-state or host-tribe) through mutual aid agreements, such as EMAC, or from FEMA. Only congregate sheltering by the host-state/tribe is eligible for PA funding.



Terminology

Impact-state or **impact-tribe** means the state or Tribal Nation for which the president declared an emergency or major disaster and requested FEMA assistance because of a need to evacuate and/or shelter affected individuals outside the state or tribal lands.

Host-state or **host-tribe** means a state or Tribal Nation that by agreement with FEMA provides sheltering or evacuation support to evacuees from an impact-state or impact-tribe.

If the impact-state/tribe requests assistance directly from another state or Tribal Nation, FEMA reimburses costs based on the mutual aid agreement as described under Mutual Aid in Chapter 6. FEMA may also provide PA funding to the host-state/tribe directly, even if the impact-state/tribe already requested assistance directly from that host-state/tribe, provided that:

- The impact-state/tribe requested the assistance;
- The host-state/tribe agrees to accept evacuees based on need—without restriction;
- An authorized official from the host-state/tribe transmits a written agreement to FEMA; and,
- The governor or tribal chief executive of the host-state/tribe signs the FEMA/host-state or FEMA/host-tribe agreement pursuant to the terms and conditions in 44 C.F.R. § 206.44, FEMA-state agreements, to establish the host-state/tribe as the recipient.[302]

If the impact-state/tribe requests assistance from FEMA, FEMA determines whether potential host-states/tribes have sufficient capability to meet some or all of the sheltering and evacuation needs of the

[302] 44 C.F.R. § 206.202(f)(1)(i).

impact-state/tribe. If FEMA determines a host-state/tribe has sufficient capability and the host-state/tribe meets the four conditions described above, FEMA provides PA funding to the host-state/tribe directly.[303]

When FEMA provides PA funding directly to the host-state/tribe, FEMA reimburses 100 percent of the host-state/tribe's eligible costs, including straight-time and benefits of the host-state/tribe's permanent employees[304] so that it does not have any out-of-pocket costs. In these cases, the impact-state/tribe is responsible for the non-federal cost share and must subsequently reimburse FEMA for the non-federal cost share of the eligible costs incurred by the host-state/tribe. The non-federal cost share is based on the category B cost-share amount designated in the declaration. The impact-state/tribe cannot offset its non-federal cost share with the host-state/tribe's volunteer labor.



Figure 14. Evacuees Boarding a Bus

In addition to the other eligible evacuation and sheltering costs described in this chapter, FEMA also reimburses the host-state/tribe for the following:

- Straight-time and benefits of entities' employees that provide assistance under a mutual aid agreement or a contract with the host-state/tribe, such as a local government or PNP;
- Costs to provide the requested shelter capacity, even if the shelter was underused or not used at all;
- Costs related to arrest and incarceration of evacuees who commit unlawful acts in the host-state/tribe congregate shelter, including costs incurred by on-duty law enforcement officers in order to detain, take into custody, or make an arrest (costs of chemical tests, processing, charging, booking, and holding such persons are ineligible costs). Costs to transport a detainee back to the shelter is eligible if the individual was not charged;
- When patients in hospitals in the impact-state/tribe are evacuated, transported, and admitted into hospitals in the host-state/tribe through mission assignment with U.S. Department of Health and Human Services (HHS), and the patients are treated and discharged but require follow-on care while awaiting transport, and shelters are not available, the costs that the host-state/tribe's hospital incurs for hotel rooms during patients' follow-on care until the patients can be transported back to the impact-state/tribe, provided that Medicare, Medicaid, or private insurance does not cover these costs;
- Bus or shuttle transport to pick up evacuees at the airport, train station, or bus terminal when the expected plane, train, or bus is re-routed, canceled, or rescheduled;
- Ambulance costs for hospital-to-hospital transfers, provided it is a transfer within the host-state/tribe;
- When the impact-state/tribe determines that it is safe for re-entry, it coordinates with the host-state/tribe and FEMA to return evacuees, household pets, and service and assistance animals to the impact-state/tribe by air, rail, or bus. Return transportation costs are eligible along with food, water, and security during transport;

[303] 44 C.F.R. § 206.208(c)(3).
[304] 44 C.F.R. § 206.202(f)(1)(ii).

- Return transportation costs for family members of the impact-state/tribe evacuee who were admitted to a hospital after the congregate shelters close;
- When evacuees are discharged from a hospital after all congregate shelters have closed and transportation cannot be arranged for departure on the same day discharged, FEMA reimburses up to 5 nights of hotel lodging while awaiting return transport; and,
- FEMA reimburses a state agency from the impact-state/tribe for transportation costs and related expenses to transport the evacuated decedent's remains and accompanying family members to the impact-state/tribe. The cost of the state/tribe-mandated embalming or cremation of the body prior to return are also eligible.

The host-state/tribe must determine whether any ambulance or medical service costs are covered by a patient's private insurance, Medicare, Medicaid, or a pre-existing private payment agreement as FEMA deducts this amount from the host-state/tribe's eligible cost.

Fees that the host-state/tribe waives for the use of state parks by self-evacuees with recreational vehicles (RVs) are ineligible. Additionally, purchase and distribution of gas cards, bus passes, cash vouchers, debit cards, food vouchers, or direct payments to evacuees are ineligible.

4. CHILDCARE SERVICES

FEMA reimburses SLTT governments for the cost of providing licensed childcare services to support sheltered populations. This includes the cost of the labor, facility, supplies, and commodities. Childcare services can be eligible in support of both congregate and non-congregate sheltering.

Childcare includes services, such as:

- Day care for children; and,
- Before- and after-school care.

Applicants may provide these services within a shelter facility or in a separate facility, as appropriate. FEMA PA and IA staff will coordinate to ensure no duplication with IHP assistance.

P. Infectious Disease Incident

The HHS Centers for Disease Control and Prevention (CDC) has primary authority to enable support and assistance to SLTT governments in response to an infectious disease incident. In response to a Stafford Act declaration request, FEMA will formulate a recommendation based on all available information to include whether emergency protective measures and/or DFA (e.g., personnel, equipment, and supplies) is needed to meet critical emergency protective requirements that are beyond the capability or capacity of the state, Tribal Nation, or territory. However, the president retains sole authority to approve all declaration requests, regardless of any FEMA recommendation.

In the event of an emergency or major disaster declaration, FEMA may provide assistance for the evacuation and movement of persons; movement of supplies; and care, shelter, and other essential needs of affected human populations directly related to the declared incident. Any assistance provided by FEMA in response to an infectious disease incident or pandemic is done in coordination with the CDC. When FEMA engages with and supports work and costs related to a specific infectious disease incident or pandemic, FEMA will issue

disaster-specific guidance (DSG) to identify what emergency protective measures will be considered as necessary and therefore eligible work for the incident.

Q. Mosquito Abatement

Mosquito abatement measures are eligible when an SLTT government public health official validates in writing that a mosquito population poses a specific health threat as discussed further in Appendix F: Mosquito Abatement. FEMA consults with the CDC to determine the eligibility of mosquito abatement activities. FEMA only provides PA funding for the increased cost of mosquito abatement. The eligible costs are calculated by deducting the average mosquito abatement expenses from the most recent three non-disaster years from the disaster-related costs.

R. Safety Inspections

Building department officials typically conduct post-incident safety inspections to determine whether a building has sustained damage that results in a hazardous condition.[305] Post-incident safety inspections to determine whether the facility is safe for entry, occupancy, and lawful use for public and private facilities are eligible; this includes posting appropriate placards (e.g., "red-tagging" a building that is unsafe).

Applicants must clearly substantiate that the purpose of the inspection was for safety and not to assess damage, such as building inspections.

S. Animal Carcasses

Removal and disposal of animal carcasses, including interim processing,[306] is eligible. If the removal and disposal is conducted as part of the overall debris removal efforts, the work may be funded as category A.

FEMA may require certification from the SLTT government health department, HHS, or the U.S. Department of Agriculture (USDA) that a threat to public health and safety exists.

Smaller animal carcasses (e.g., rodents, skunks, or possums) do not usually pose an immediate threat to public health or safety. Removal and disposal of these carcasses is ineligible unless the appropriate public health official determines a threat to public health or safety exists.

FEMA does not provide PA funding when another federal agency has authority to provide assistance for carcass removal and disposal. The NRCS has authority for the removal of animal carcasses if it determines that the measure is eligible as debris removal. The USDA's Farm Service Agency may provide assistance for farmland debris cleanup. EPA and USCG have authority to provide technical assistance and to remove animal carcasses contaminated with oil, hazardous substances, pollutants, or contaminants.[307]

[305] For more information, refer to: *Post-Disaster Building Safety Evaluation Guidance* (FEMA P-2055).
[306] Interim processing may include burning, incinerating, rendering, mounding, composting, or other pre-processing activities.
[307] For more information, refer to: FEMA POLICY: Mission Assignments FEMA Policy #104-010-3.

T. Demolition of Private Structures

Emergency demolition of structures located on private property (e.g., privately-owned non-commercial or commercial property) are eligible when partial or complete collapse is imminent, and that collapse poses an immediate threat to the general public. FEMA accepts determinations that a structure is destroyed and/or in immediate danger of collapsing made by the authority having jurisdiction in coordination with a qualified individual.[308]

In some instances, restricting public access to an unsafe structure and the surrounding area, such as securing the area with a fence, is sufficient to alleviate the immediate threat and is more cost-effective than demolition. In these cases, demolition is ineligible. If a structure is condemned prior to the incident, emergency protective measures related to that structure are ineligible.

1. CONDITIONS OF ELIGIBILITY FOR DEMOLITION

Approval from FEMA prior to demolition work is not required; however, for an applicant to receive PA funding, FEMA must determine that the work is eligible. For demolition to be eligible, applicants must:

- Notify FEMA that demolition of private structures will be conducted and identify the type of property on which the demolition work is being conducted (e.g., privately-owned non-commercial or commercial property) so FEMA can ensure notifications are made to the necessary FEMA components and federal partners;
- Certify that the structures are unsafe and pose an immediate threat to lives or public health and safety as determined by the authority having jurisdiction, in coordination with a qualified individual;
- Provide documentation to confirm its legal authority and responsibility to enter private property and demolish privately-owned unsafe structures, including:
    - Citation of the law, ordinance, code, or emergency powers for which it is exercising its legal authority to demolish privately-owned unsafe structures. The authority cited must be applicable to the structural condition representing the immediate threat and not merely the applicant's uniform level of services.
    - 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 declared area in order to demolish privately-owned unsafe structures and remove the resulting debris.
- Indemnify the federal government and its employees, agents, and contractors from any claims arising from the demolition of privately-owned unsafe structures and removal of the resulting debris; and,
- Obtain all necessary permits and comply with all federal and SLTT applicable laws, regulations, and EOs.

Before FEMA will provide PA funding, applicants must provide confirmation that it satisfied all legal processes and obtained permission requirements from the property owners (rights-of-entry) and agreements to indemnify and hold harmless the federal government. Additionally, applicants must provide documentation to support that it obtained all necessary permits and complied with EHP requirements.

[308] Only a licensed engineer or architect or an individual that the jurisdiction authorized can make such decisions.

Given the limited eligibility of and the additional requirements related to demolition of private structures, applicants are encouraged to obtain preliminary approval for the activity from FEMA prior to starting work.

2. COMMERCIALLY OWNED STRUCTURES

Demolition of structures owned by commercial enterprises, including businesses, apartments, condominiums, and mobile homes in commercial trailer parks are generally ineligible as it is expected that the commercial enterprises retain insurance that cover the cost of demolition. In very limited, extraordinary circumstances, the FEMA Regional Administrator may provide an exception. In such cases, applicants must meet the requirements outlined under Private Property Debris Removal (PPDR) in this chapter.

3. ELIGIBLE DEMOLITION WORK

Eligible work associated with the demolition includes, but is not limited to:

- Capping wells;
- Pumping and capping septic tanks;
- Filling open below-grade structures, such as basements and swimming pools;
- Testing for hazardous materials;
- Securing utilities;
- Obtaining permits and licenses; and,
- Performing title searches.

Fees for permits, licenses, and titles issued directly by an applicant are ineligible unless the applicant demonstrates that the fees are above and beyond its normal administrative costs for similar non-disaster demolition work. Overtime labor directly related to issuing these permits, licenses, and titles for facilities that are eligible for demolition is eligible.

The following work is also eligible and may be funded as category A if the removal and disposal is conducted as part of the overall debris removal operations:

- Removing demolition debris, including personal effects; and
- Removing hazardous materials, such as asbestos and household hazardous waste (in accordance with federal and SLTT requirements for handling hazardous materials).

Applicants should work with the property owner to pursue and recover insurance proceeds and credit FEMA the federal share of any insurance proceeds recovered. In some circumstances, the property owner may be eligible for IA funding. FEMA PA and IA staff will coordinate closely to ensure FEMA does not fund the same work under both programs.



Example: Eligibility of Demolition Debris

For demolition, FEMA will accept determinations that a structure is destroyed and/or in immediate danger of collapsing made by the authority having jurisdiction in coordination with a qualified individual. Certain demolition work and costs may be funded as category A if the removal and disposal

is conducted as part of the overall debris removal operations. Demolition is subject to additional requirements and must comply with Demolition of Private Structures in this chapter.

4. INELIGIBLE WORK

Ineligible work associated with the demolition of private structures includes, but is not limited to:

- Removal or covering of concrete pads and driveways except for structures in a FEMA-funded buyout program; and,
- Removal of slabs or foundations that do not present a health or safety hazard, except for structures in a FEMA-funded buyout program through the Hazard Mitigation Grant Program (HMGP).

The placement of debris resulting from demolition of a structure in or on the public right-of-way is ineligible work.

U. Temporary Relocation of Essential Services

If an applicant provides essential community services at a facility that is unsafe, inaccessible, or destroyed as a result of the incident, temporary relocation of these services to another facility is eligible.[309] Essential community services are those services of a governmental nature that are necessary to save lives, protect property and the public, and preserve the proper function and health of the community at large. These services differ from the list of eligible PNP essential social services. FEMA evaluates the criticality of the service and safety of the facility to determine the need for temporary relocation.

1. ELIGIBLE FOR TEMPORARY RELOCATION

Facilities that provide essential community services provided by an eligible applicant are eligible for temporary relocation. These include facilities for education, election and polling, emergency services (including police, fire, and rescue) emergency medical care, homeless and domestic violence shelters, prison, utilities, and other facilities that provide public health and safety services of a governmental nature.

Services provided in administrative and support facilities essential to the provision of the essential community service are also eligible for temporary relocation. These include administration buildings, student housing, hospital and prison laundry and cooking facilities, parking, and storage if items are needed on-site. Athletic, play, and recreational equipment is eligible, within reason.

If an applicant provides the service at a leased, private facility prior to the incident, the service is still eligible to be temporarily relocated.

2. INELIGIBLE FOR TEMPORARY RELOCATION

Facilities that do not provide essential community services are ineligible for temporary relocation. These include facilities and services, such as museums, zoos, community centers, shelter workshops, performing arts centers, recreation and parking, athletic stadiums, houses of worship, housing and residential services, custodial care, assisted living facility, senior citizen centers, alcohol and drug rehabilitation, childcare,

[309] Stafford Act § 403(a)(3)(D); 42 U.S.C. § 5170b.

libraries, research and warehouse facilities, burial, vocational, academic, athletic, political training, and student union buildings.

3. DETERMINING ELIGIBILITY OF TEMPORARY RELOCATION

In addition to all other eligibility requirements that must be met, FEMA determines the eligibility of temporarily relocating services to another facility based on the safety of the damaged facility as follows:

- If the facility can be made usable with the performance of emergency protective measures or minor repairs, a temporary facility is not eligible.
- If the damage is to the extent that it cannot be occupied safely, and restoration cannot be completed without suspending operations of the facility for an unacceptable period of time, then a temporary facility is eligible.
- If the facility is not damaged but lacks a critical utility or operational item, such as potable water, electricity, or road access, and a temporary facility will restore services to the community before the restoration of the disrupted critical utility or operational item at the current site, then a temporary facility is eligible.

The capacity of the temporary facility must not exceed the pre-disaster capacity of the facility that housed the displaced services unless that is the least costly practical option. Applicants must use the temporary facility to provide the eligible service to the same extent and manner as was provided prior to the incident.

Relocation to a site that requires ground disturbance or alteration of an existing property requires EHP review before an applicant implements the action. See Chapter 10: Environmental and Historic Preservation for more information on EHP review and considerations.

FEMA does not require applicants to obtain and maintain insurance for temporary facilities.

If an applicant has a facility that does not meet eligibility requirements for temporary relocation and the facility's damage is to such an extent that the contents are at risk, PA funding for temporary space to store the contents as an emergency protective measure is eligible if the space is:

- Limited to an area necessary to store the contents;
- Used solely for storage; and,
- Not intended for public access, alternate office space, exhibits, or other purposes.

FEMA is not responsible for damage that may occur to contents in temporary storage.

4. LEASE, PURCHASE, OR CONSTRUCT

When deciding whether to rent or purchase space and equipment, applicants should choose the most economical option that meets its needs. Applicants must provide FEMA with a cost analysis,[310] which should include at least three options with cost estimates based on the timeline to restore the original facility. Cost estimates for leasing a facility must account for the entire timeline of the project. Cost estimates must include an itemized list of project costs.[311] FEMA generally reimburses the least costly option of leasing,

[310] 2 C.F.R. § 200.318(d).
[311] For more information, refer to: Cost Estimating Tools | fema.gov.

purchasing, or constructing a temporary facility. However, FEMA also considers whether the least costly option is practical when determining eligibility (e.g., if the least costly option for a temporary school is to lease a building in another county, and the next least costly option is to install modular buildings on the current campus, FEMA reimburses the cost of installing the modular buildings).

If an applicant relocates a service from a facility it owns, the lease costs of a temporary facility are eligible if leasing is the least costly option. If the applicant was leasing the damaged facility and had to temporarily relocate to another leased facility, the increase in rent is eligible.

Purchasing or constructing a temporary facility is eligible if FEMA confirms that it is the least costly option. With exception of modular or manufactured units, the applicant must obtain FEMA approval prior to purchasing or constructing the temporary facility.

5. SAFE ROOMS FOR TEMPORARY SCHOOL FACILITIES

Funding for accessible safe rooms as part of a temporary school facility is if the damaged school contained a safe room or other space that served as a storm shelter and there are no other cost-effective, reasonable alternatives available to address the safety needs of the students and faculty.

If an applicant wishes to seek funding for a safe room as part of a temporary school facility, it must obtain prior approval from FEMA. The request needs to include:

- A description of the safe room or safe space that was used as a storm shelter prior to the incident;
- The population of students and faculty that need access to the safe room;
- Verification that no other cost-effective reasonable alternatives are within proximity that can be used as a safe space for the school population; and,
- An indication that the applicant will have the safe room installed and operational when school resumes and students occupy the temporary classroom space.

If approved, the safe room capacity is based on student population and the number of faculty who are expected to use the temporary school facility. The capacity of the safe room cannot exceed the pre-disaster capacity of the safe room in the damaged school. The safe room should be available no later than the opening day of classes at the temporary facility. The timeframe for providing PA funding for the temporary safe room space coincides with the approved timeframe for providing PA funding for the temporary school facility.

Safe rooms provided as part of a temporary school facility must comply with the requirements of *Safe Rooms for Tornadoes and Hurricanes* (FEMA P-361).[312]

6. TEMPORARY RELOCATION COSTS

Eligible work or costs associated with the provision of temporary facilities include, but are not limited to:

[312] For more information, refer to: *Safe Rooms for Tornadoes and Hurricanes* (FEMA P-361).

- Rental or purchase equipment and furniture necessary to continue the services in the temporary facility if the equipment and furniture was destroyed by the event (FEMA will provide a one-time purchase to replace destroyed equipment and furniture);
- Reasonable alterations of the temporary facility, if required to make the space functional based on the pre-disaster use of the damaged facility;
- Restoration of the temporary facility to its pre-disaster condition when no longer needed;
- Moving expenses to and from the temporary facility;
- Minimal life-safety or other building upgrades required by an applicable code or standard and in effect at the time the temporary facility is purchased or leased (e.g., a "change in use" could trigger the need for such work); and,
- Public outreach and messaging costs necessary to inform the public that the service will temporarily be provided at a different location.

FEMA does not provide PA funding for utility, maintenance, or operating costs in a temporary facility, even if these costs increase.

7. TIME LIMITATIONS

The regulatory time limitation for temporary facilities (emergency work) is 6 months from the declaration date.[313]

Depending on the extent of damage to the facility, applicants may be unable to restore the facility to its pre-disaster design and function within 6 months. 44 C.F.R. provides recipients the authority to extend the deadline for emergency work for up to 6 additional months.[314] However, for temporary facilities, only FEMA has authority to approve any time extensions to the project deadline.

FEMA considers the timeframe necessary to restore the damaged facility when evaluating time extensions for temporary facilities. If an applicant requests funding for a temporary facility and knows at that time that the restoration of the original facility will exceed 6 months, FEMA may approve additional time and funding up to 12 months. If the applicant needs additional time beyond this 12-month deadline, it must submit a written time extension request that includes the status of the restoration work and timeline for completion in accordance with 44 C.F.R. § 206.204(2)(d).

FEMA only approves additional time if the applicant begins construction on the damaged facility within 12 months of the declaration date unless circumstances beyond the control of the applicant prevented starting the construction within this 12-month timeframe.

i. Conditions When Temporary Facility Funding is Limited

a. Improved Project

If FEMA approves an improved project for the permanent repair or restoration of a facility for which it also approved temporary relocation of the essential community services to a temporary facility, the temporary

[313] 44 C.F.R. § 206.204(c)(1).
[314] 44 C.F.R. § 206.204(c)(2)(ii).

facility is only eligible for PA funding for the estimated amount of time necessary to restore the facility to its pre-disaster design and function. If the actual time to restore the facility with the improvements extends beyond this timeframe and causes the applicant to continue its use of the temporary facility, FEMA does not reimburse any cost associated with that continued use. However, FEMA may reimburse costs associated with relocating its services back into the original, damaged facility as part of the approved temporary facility project.

b. Alternate Project

If FEMA approves an alternate project for the permanent repair, restoration, or replacement of a facility for which it also approved temporary relocation of the essential community services to a temporary facility, FEMA does not reimburse any temporary facility costs incurred after the date the applicant requests that alternate project.

c. Alternative Procedures Project

If FEMA approves an alternative procedures project for the permanent repair or restoration of a facility for which it also approved temporary relocation of the essential community services to a temporary facility, continued PA funding for the temporary facility is dependent upon the scope of work (SOW) of the alternative procedures project. Additional information about alternative procedures projects can be found in Appendix G: Alternative Procedures for Permanent Work.

8. DISPOSITION REQUIREMENTS

If an applicant purchased or constructed a temporary facility, it must return to FEMA the federal share of the equity in the facility. Applicants must report the equity to FEMA when the approved deadline has expired or when the facility is no longer needed for the authorized purpose, whichever occurs first.

If FEMA only funded a portion of the cost of the facility, applicants must return to FEMA the federal share of FEMA's proportionate equity in the facility. The amount due to FEMA is computed by applying FEMA's percentage of participation in the cost of the purchase or construction to the fair market value or sale proceeds, taking into consideration reasonable out-of-pocket costs related to the sale.

Applicants may either retain the facility or sell it. If the applicant disposes of real property (land or structures) acquired with PA funding and acquires replacement real property using funds from the same PA project, it may use the net proceeds of the sale to offset the cost of the replacement property.

V. Snow-Related Activities

When the president declares an incident as a snowstorm or specifically authorizes snow assistance in a declaration for a severe winter storm, FEMA provides PA funding for impacts related to snow, but the assistance is limited.[315] The request for a major disaster declaration for a winter storm or snowstorm, must

[315] 44 C.F.R. § 206.227.

include a request for snow assistance to be approved in the declaration. See Appendix K: Snow Declarations for detailed information. FEMA does not authorize snow assistance for emergency declarations.

1. LIMITED TIME PERIOD

Snow-related activities are eligible for a continuous 48-hour period to address the most critical emergency needs.[316] Each applicant designates the beginning of its 48-hour period. However, a state or territorial agency that conducts snow-related activities in multiple locations throughout the state or territory, such as a Department of Transportation, may use different 48-hour periods for different locations. Once FEMA approves a project for an applicant's designated 48-hour period, the applicant cannot change its selected period. If an applicant awards a contract for periods greater than the 48-hour period, PA funding is limited to the costs incurred during the designated 48-hour period. The FEMA Assistant Administrator of the Recovery Directorate may extend the eligible period by 24 hours in counties, parishes, or Tribal Nation areas where the snowfall exceeds the historical record snowfall by at least 50 percent. The applicant should submit a written request for the additional 24-hour time extension.

2. ELIGIBLE WORK

Eligible work includes:

- Snow-related activities (for limited time as discussed above):
  - De-icing;
  - Salting;
  - Sanding of roads and other eligible facilities;
  - Snow dumps; and,
  - Snow removal;
- Other emergency protective measures including, but not limited to search and rescue and sheltering conducted during a declared incident that includes snow related activities. These emergency protective measures are not restricted to the 48 hours designated for snow related activities.

Limited snow-related activities necessary to carry out emergency protective measures, such as clearing snow in the immediate area of a downed power line, are eligible outside of the limited time period and in counties declared but not designated for snow assistance.

For severe winter storm declarations that do not specifically authorize snow assistance, FEMA only provides PA funding for limited snow-related activities that are necessary to perform otherwise eligible work. For example, snow removal necessary to repair downed power lines is eligible, while normal snow removal from roads (including salting and sanding) is ineligible.

W. Emergency Repair or Stabilization

Emergency repair or stabilization of an eligible facility is eligible as emergency work if it eliminates or lessens an immediate threat.[317] To be eligible as category B eligible emergency repair or stabilization, work must be

[316] Ibid.
[317] 44 C.F.R. § 206.201(b).

temporary in nature. Emergency repair or stabilization work performed under an exigent circumstance that restores the pre-disaster design and function of the facility in accordance with codes and standards is permanent work,[318] not emergency work, with one exception – work to restore power (see Power Restoration in Chapter 8).

Emergency repair of a facility is ineligible if another federal agency has the specific authority to provide assistance for the facility (even if the repair is temporary),[319] such as for:

- Federal-aid highways – Federal Highway Administration (FHWA);
- Flood control works – U.S. Army Corps of Engineers (USACE); or
- Watershed structures – Natural Resource Conservation Service (NRCS).

For Tribal Nations specifically, although the Bureau of Indian Affairs (BIA) or FHWA may have authority to provide temporary emergency repairs of tribal roads, such roads are eligible for PA funding provided the Tribal Nation does not receive funding from BIA or FHWA for the work.

1. OPERATION BLUE ROOF (DFA ONLY)

Operation Blue Roof provides homeowners with plastic sheeting to cover damaged roofs until arrangements can be made for permanent repairs through contracts administered by USACE. The purpose of Operation Blue Roof is to protect property, reduce temporary housing costs, and allow residents to remain in their homes while recovering from the incident. Therefore, only dwellings that can be safely occupied after blue roof installation are eligible. The costs of these services are ineligible for reimbursement. However, FEMA may provide DFA for these services.[320]

2. SLOPE STABILIZATION

If a landslide or other slope instability is triggered by the incident and poses an immediate threat to life, public health and safety, or improved public or private property, emergency protective measures to stabilize the slope is eligible.

FEMA only provides PA funding for the least costly option necessary to alleviate the threat. FEMA limits eligible stabilization measures to the area of the immediate threat, not the entire slope. Work must be reasonable relative to the size and scope of the area of instability.

If slope instability is triggered by the incident and it is not apparent that the instability creates an unsafe condition that poses an immediate threat, PA funding for post-disaster inspections and limited geotechnical investigations is eligible to determine if an immediate threat exists.

Eligible emergency protective measures include, but are not limited to:

- Emergency drainage measures;
- Emergency ground protection to better stabilize the mass (rip rap, sheeting);

[318] 44 C.F.R. § 206.201(j).
[319] 44 C.F.R. § 206.226(a).
[320] For more information, refer to: *USACE Temporary Roofing Fact Sheet*.

- Partial excavation at the head of a sliding mass to reduce its driving force;
- Backfilling or buttressing at the toe of a sliding mass using measures, such as gabions, rock toes, cribwalls, binwalls, and soldier pile walls; and,
- Installation of barriers to redirect debris flow.

3. MOLD REMEDIATION

The incident may cause facilities to be inundated or exposed to wet and humid weather conditions for extended periods of time. These conditions may cause growth and spreading of mold in structures and on contents, causing threats to public health and increasing the repair cost.

The following remediation activities are eligible as emergency protective measures:

- Wet vacuuming, damp wiping, or vacuuming with high-efficiency particulate air (HEPA) equipment of the interior space;
- Removal of contaminated gypsum board, plaster (or similar wall finishes), carpet or floor finishes, and ceilings or permanent light fixtures; and,
- Cleaning of contaminated heating and ventilation (including ductwork), plumbing, and air conditioning systems or other mechanical equipment.

Applicants may use a variety of mold cleanup methods to remediate mold damage based on the extent of damage and type of damaged material. Appendix H: Mold Remediation provides information for consideration when developing a SOW for mold remediation. Applicants must follow applicable SLTT government guidelines for mold sampling and remediation.

Note: Pre-remediation mold sampling is only eligible when the sampling reveals the presence of mold. Post-remediation sampling is eligible to confirm that remediation is complete.

FEMA only provides PA funding for mold sampling performed by an indoor environmental professional, such as a certified industrial hygienist, certified indoor environmental consultant, or certified microbial consultant. The indoor environmental professional should not be employed by the remediation company to avoid a conflict of interest. FEMA considers technical evaluations performed by licensed professionals when determining the eligibility of mold remediation.

For mold remediation to be eligible, mold must not be a result of poor facility maintenance or failure to take protective measures to prevent the spread of mold in a reasonable time after the incident. If an applicant can document and justify why it did not take measures to prevent further contamination, or why measures taken were insufficient to prevent further damage, mold remediation is eligible. Examples of extenuating circumstances include:

- Disruption of power;
- Facility is underwater;
- Facility is inaccessible;
- Heating, ventilation, and air conditioning (HVAC) equipment is damaged; and,
- Insufficient resources to remediate the entire facility.

FEMA evaluates whether the facility had pre-existing water infiltration conditions when determining whether mold remediation is eligible. For this evaluation, FEMA considers whether there is evidence of pre-existing damage or deferred maintenance, such as:

- Improperly sealed windows or exterior vents;
- Standing water against an exterior wall;
- Poorly maintained drains or gutters with rust or vegetative growth; and,
- Leaking and or water-stained ceiling tiles.

4. EMERGENCY BERMS ON BEACHES

If a natural or engineered beach has eroded to a point where flooding from a storm that has a 20 percent chance of occurring in any given year (5-year storm) could damage improved property, cost-effective emergency protective measures on the beach that protect the improved property against damage from that 5-year storm are eligible.

Eligible measures typically include the construction of emergency sand berms to protect against additional damage from a storm that has a 20 percent chance of occurring in any given year. Emergency sand berms are not intended to permanently restore the beach; they are intended only to provide protection from immediate threats. Applicants may construct emergency berms with sand recovered from the beach or with imported sand. If an applicant constructs the berms with imported sand, FEMA will only provide PA funding if the sand is from a source that meets applicable environmental regulations and one of the following circumstances exists:

- Recoverable quantities are insufficient; or
- SLTT government regulations prohibit placement of the recovered sand.

To show that flooding from a storm that has a 20 percent chance of occurring in any given year could damage improved property, applicants must demonstrate that the still water level plus wave runup elevation for a 5-year storm exceeds the post-incident elevation of the primary dune.

The 5-year still water level (SWL) is equal to the average water surface elevation of the rise in seawater level (surge) resulting from a storm that has a 20 percent chance of occurring in any given year, plus wave setup and the astronomical tide. The 5-year total water level (TWL) is equal to the elevation of the wave runup predicted for a storm that has a 20 percent chance of occurring in any given year plus the SWL. Locations where the elevation of the post-incident profile is less than the TWL are eligible for placement of an emergency berm to protect improved property. See Figure 15. Determining Eligibility of Emergency Berms on Beaches below.

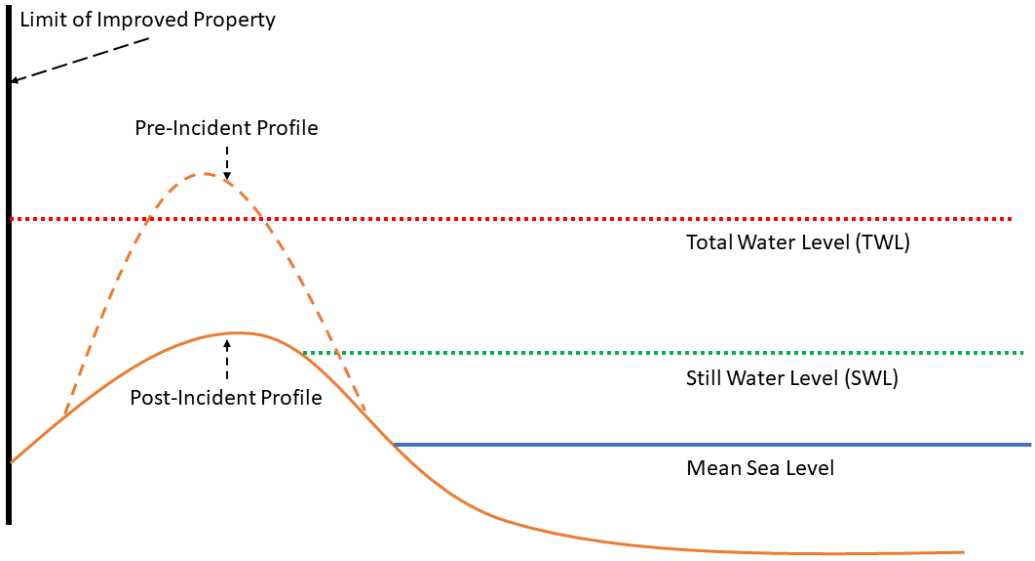


Figure 15. Determining Eligibility of Emergency Berms on Beaches

Based on the average expected erosion for a storm that has a 20 percent chance of occurring in any given year, FEMA only provides PA funding for emergency berms constructed with up to 6 cubic yards per linear foot of sand above the 5-year stillwater level or the berm's pre-incident profile, whichever is less. In some cases, placing sand below the 5-year stillwater level may be necessary to provide a base for berm. The placement of that sand is also eligible as part of the emergency protective measure.

Placement of dune grass on an emergency dune or berm is only eligible if it is required by permit and is an established, enforced, uniform practice that applies to the construction of all emergency berms within an applicant's jurisdiction, regardless of the circumstance. If dune grass is required, the applicant must include the grass placement cost in the dune or berm construction cost when evaluating cost-effectiveness. Any maintenance of the dune grass after the initial installation is ineligible.

For berms located on natural beaches, or improved beaches which do not qualify as category G-eligible facilities, the category B work will not result in a dune eligible under category G in future disasters. If an applicant chooses to construct engineered dunes, the eligible work and costs are limited to that necessary for addressing the immediate threat.

Applying eligible sand volumes to an aggregate total as the result of several disasters, to be used in a work-to-be-completed project, is not allowable for emergency berm sand since category B, by definition, addresses an immediate threat.

X. Elections and Polling Activities

Public Assistance may fund election-related work, as these services are essential to ensuring the continued function of communities. Disasters can damage or destroy the facilities that host these activities or render them unusable due to power outages. These facilities are often located in public buildings, such as schools or community centers, which may also be needed for disaster response and recovery efforts, like sheltering, potentially disrupting election activities.

If disaster-related damage impacts election facilities or voting equipment, Public Assistance is available to support work and costs, subject to cost-sharing requirements.

XIV. Damage Caused During Performance of Emergency Work

Applicants may damage improved property, supplies, or equipment during the performance of eligible emergency response activities or debris removal operations.

The repair of damage to public property, supplies, or equipment is eligible as part of the respective emergency work (category A or B) project[321] if the damage was:

- Due to severe conditions resulting from the incident;
- Unavoidable; and
- Not due to improper or excessive use.

Replacement of damaged trees, shrubs, or other ground cover is eligible as part of the repair work when damaged during eligible emergency work activities. Reasonable cost standards as outlined in Chapter 6: Cost Eligibility still apply. Crops and agriculture are not eligible for replacement.

For equipment damage, FEMA requires maintenance records to demonstrate that the equipment was regularly maintained and in good operational order prior to the incident, and details regarding when, where, and how the damage occurred.

Repair of damage to private property is only eligible if the above criteria is met and either:

- The property is an easement, and the applicant is legally responsible for repairing the damage it causes to the easement; or
- The applicant leased the property either for sheltering or for a temporary debris staging site, and the lease agreement establishes that the applicant is legally responsible for the repair.

Damage caused by snow-related activities conducted outside of the authorized period, as described under Snow-Related Activities in Chapter 7 is ineligible.

[321] Although the repairs may be permanent work, FEMA includes it on the emergency work project as damage resulting from the emergency work.

Chapter 8: Permanent Work Eligibility (Categories C-G)

Section 406 of the Stafford Act authorizes FEMA to provide assistance for both permanent work (categories C-G) and building code and floodplain management administration and enforcement activities (category I). Permanent work is subject to insurance obtain and maintain requirements to protect facilities against future loss. This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles). Work must also comply with all applicable environmental and historic preservation laws, executive orders, and regulations.

I. Facility Restoration (Categories C-G)

Permanent work (categories C–G) is work required to restore a facility to its pre-disaster design (size and capacity) and function in accordance with applicable codes and standards.[322] Categories C-G work is subject to the eligibility of the facility as described under the Facility Eligibility section in Chapter 4 and shown in Figure 16. Permanent Work Eligibility.

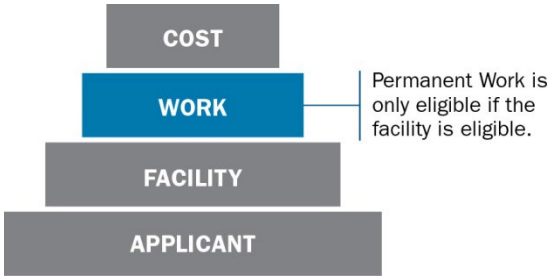


Figure 16. Permanent Work Eligibility

Pre-disaster design means the size or capacity of a facility as originally constructed or subsequently modified. It does not mean the capacity at which an applicant was using the facility at the time of the incident if different from the most recent designed capacity.[323]

Pre-disaster function is the function for which the facility was originally designed or subsequently modified. For example, if an applicant designed and constructed an administrative building, but later altered it in accordance with applicable construction codes or standards to use as a school, the pre-disaster function would be a school. If the facility was serving an alternate function at the time of the incident, but was not altered to provide that function, FEMA provides PA funding to restore the facility either to the original pre-disaster function, or pre-disaster alternate function, whichever costs less.[324]

[322] 44 Code of Federal Regulations (C.F.R.) § 206.201(i). Although this section of 44 C.F.R. does not reference function as part of the definition of permanent work, 44 C.F.R. § 206.203(d)(2) states that if the applicant does not restore the function, it is an alternate project. See Public Assistance Mitigation Funds for Capped Projects in Chapter 8 for discussion on alternate projects.
[323] 44 C.F.R. § 206.201(j).
[324] 44 C.F.R. § 206.226(k)(1).

Examples: Restoring to Pre-Disaster Design and Pre-Disaster Function

- Restoring to Pre-Disaster Design: If a school designed for a capacity of 100 students is damaged beyond repair, the eligible funding for the replacement facility is limited to that necessary for 100 students, even if more than 100 students were attending the school prior to the incident.
- Restoring to Pre-Disaster Function: If the applicant is using an office building as a storage facility at the time of an incident, and it is less costly to restore the facility as a storage facility, only those repairs necessary to restore it as a storage facility are eligible.

II. Codes and Standards

To promote resiliency and reduce future risk in the repair and replacement of disaster damaged facilities funded by the PA Program, FEMA requires the application of codes and standards throughout project development.[325] FEMA has a framework and requirements for consistent and appropriate implementation of consensus-based design, construction, and codes, specifications, and standards for PA to promote resiliency and achieve risk reduction ("consensus-based codes, specifications, and standards"). Applicants must incorporate these consensus-based codes, specifications, and standards in the planning, design, and execution of eligible repair, replacement, or new construction[326] projects, as feasible. Locally adopted codes, specifications, or standards may also apply or exceed FEMA's requirements as detailed under the Locally Adopted Codes and Standards section below.

A. Consensus-Based Codes, Specifications, and Standards

FEMA's consensus-based codes, specifications, and standards are intended to improve the resilience of PA-funded projects by establishing guidelines and standards to use as a benchmark. PA funding for eligible facilities must be in conformity with the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant design provisions. These represent the minimum design criteria in cases where an applicant either has no code for the type of repair or restoration required, or the code's hazard resistance provisions are insufficient.

FEMA's consensus-based codes, specifications, and standards apply to permanent work projects for buildings, electric power facilities, roads, bridges, potable water facilities, and wastewater facilities. These codes apply when triggered by the type of repair or restoration required. However, the costs associated with ongoing operations and maintenance are not eligible under this policy.

Applicants are required to restore facilities in conformity with both local codes and FEMA's consensus-based codes, specifications, and standards. It is possible that applicants may have adopted a similar code to the one being required by the FEMA's consensus-based codes, specifications, and standards.[327] In these cases,

[325] For more information, refer to: Section 1235(b) | Consensus-Based Codes and Standards | FEMA.gov.
[326] This includes improved and alternate projects. Per 44 C.F.R. § 206.203(d), funding for improved and alternate projects is capped at the cost to restore the facility to its pre-disaster design and function in accordance with codes and standards, including the required codes and standards referenced in this section, that would otherwise be applicable to the facility if rebuilt as it existed.
[327] For more information, refer to the Locally Adopted Codes and Standards section in this chapter.

PA funds the use of these locally-adopted codes if the applicant can demonstrate their eligibility under FEMA's regulatory requirements discussed in more detail under Codes and Standards Eligibility Criteria in this chapter. State, local, Tribal Nation, and territorial (SLTT) codes or standards apply if they are equal to or more stringent or relate to facilities not covered by FEMA's consensus-based codes, specifications, and standards requirements, such as dams or levees.

Failure to include the required codes, specifications, and standards in eligible PA project restoration will result in denial or deobligation of project funding. However, there are situations where applicants are not required to follow FEMA's consensus-based codes, specifications, and standards, such as when:

- The jurisdiction has adopted codes that comply with 44 C.F.R. Part 206.226(d) and have hazard-resistant elements that are the same or greater than those listed as FEMA's requirements;
- Implementing the required consensus-based codes, specifications, and standards would be technically infeasible;
- It would create an extraordinary burden on the applicant; or
- It would otherwise be inappropriate for the facility (such as adversely affecting a facility that is listed or is eligible to be listed on the National Register of Historic Places).

If any of the above conditions apply, Applicants may request a waiver for the incorporation of codes, specifications, and standards with approval from the Regional Administrator.

1. IDENTIFICATION REQUIREMENTS

Applicants are responsible for identifying which of the consensus-based codes, specifications, and standards are applicable for each damaged facility, element, or component.

Applicable consensus-based codes, specifications and standards outlined in Appendix M. Consensus-Based Codes, Specifications, and Standards are the minimum design criteria for eligible projects. Once these applicable codes, specifications, and standards are identified, applicants should develop a description of the work required to comply with those standards. The description should:

- Identify specific elements or components affected and describe how each code, specification, or standard applies (include damage inventory line item numbers);
- Describe the work related to the codes, specifications, and standards and provide design drawings, component lists, or other similar documentation;
- Include dimensions and quantities for all components; and,
- Describe the direct relationship between disaster-related damage and any upgrades to undamaged elements.

In addition, applicants must use the following criteria when implementing any of the consensus-based codes, specifications, and standards:

- The consensus-based codes, specifications, and standards apply to the damaged facility, element, or component, as appropriate, based on the type of repair or restoration required to restore the facility to pre-disaster capacity and function.

- If the applicant elects to rebuild to an alternate or improved project that alters the pre-disaster function or capacity of the facility, the applicant must incorporate any applicable consensus-based codes, specifications and standards to the new capacity or function of the facility.
- In the case where the consensus-based codes, specifications, and standards are being applied and require an upgrade to an entire structural facility, including undamaged elements/components, the upgrade is only eligible for PA funding if there is a direct relationship between the upgrade work and eligible damage.

When the consensus-based code, specification, or standard allows for discretion or for variances in the facility design to be appropriate for the facility's location, these adjustments need to be identified, documented and submitted to FEMA for approval.

2. VERIFICATION REQUIREMENTS

Compliance with the consensus-based codes, specifications, and standards requirements must be established by the applicant and will be validated by FEMA.

Upon completion of the project, the applicant must provide proof of compliance. Acceptable forms of proof include but are not limited to written certification by a registered engineer, design professional, or other qualified individual that the project was designed and constructed in compliance with the applicable consensus-based codes, specifications, and standards identified.

Failure to include these consensus-based codes, specifications, and standards or their equivalent in the planning, design and construction of eligible PA projects will result in the denial or deobligation of FEMA project funding.

3. ADDITIONAL ELIGIBLE WORK AND COSTS

- FEMA may approve PA funding as part of a project for technical assistance support, which may include architectural and engineering design (A&E), at the applicable cost-share of the project, to assist communities that lack the necessary subject matter expertise to implement the required codes, specifications, and standards.
- Applicants may include the cost for purchasing a code, specification, or standard on a specific project in the engineering and design expenses for the project. This is a one-time purchase per disaster where the applicant can use the code, specification, or standard for similar projects.
- Funding for capped projects will be based on the estimated amount to restore the facility to its pre-disaster capacity and function including any eligible work such as work required by the consensus-based codes, specifications, and standards.
- The scope of work will be based on pre-disaster capacity unless the adopted code or standard requires an increase to that capacity.

4. OTHER CONSIDERATIONS

- When evaluating whether a facility is eligible for replacement under 44 C.F.R. § 206.226(f), upgrades to meet the identified required consensus-based codes, specifications, and standards will be treated in the same manner as locally adopted codes, specifications, and standards for the purposes of calculating repair and replacement costs.

- When a consensus-based code, specification, or standard offers discretion in design, FEMA will fund the least expensive alternative unless FEMA determines, after demonstration by the applicant's engineer, design professional, or other qualified individual that another alternative provides greater hazard risk reduction to the facility. In making a determination, FEMA will consider the additional risk reduction, the additional cost, technical feasibility, and whether the alternative is better achieved through other programmatic options, such as mitigation funding.

B. Locally Adopted Codes and Standards

SLTT governments may have their own codes and standards that are required in the local jurisdiction as opposed to those required by the federal government as a condition of the grant. FEMA provides PA funding to restore facilities based on pre-disaster design and function in conformity with all current applicable codes, specifications, and standards.[328] Applicants must provide documentation to support the eligibility of facility upgrades required by codes or standards.

If the applicant identifies different locally adopted codes, specifications or standards that are the equivalent to or more stringent than the consensus-based codes, specifications, and standards, FEMA requires the applicant's engineer, design professional, or other qualified individual to justify that the hazard-resistant design criteria in the locally adopted code, specification, or standard is equivalent to or more stringent than those approved under FEMA's consensus-based codes, specifications, and standards. If the local code meets or exceeds the specifications of those in FEMA's requirements, FEMA will provide funding to meet that code if it also meets the criteria in the Codes and Standards Eligibility Criteria section below.

C. Codes and Standards Eligibility Criteria

Facility repairs and new construction may "trigger" upgrade requirements established by codes or standards. Upgrades required by federal or SLTT repair or replacement codes or standards are eligible only if the code or standard meets the criteria[329] below:

- Applies to the type of repair or restoration required;
- Is appropriate to the pre-disaster use of the facility;
- Is reasonable, in writing, formally adopted and implemented by the SLTT government on or before the declaration date, or is a legal federal requirement applicable to the type of restoration;
- Applies uniformly; and,
- Was enforced during the time it was in effect.

Details about each of these criteria are discussed in the following sections.

1. APPLIES TO THE TYPE OF RESTORATION REQUIRED

Codes and standards must apply to the type of restoration required. Codes and standards for new construction are often different than codes and standards for repair work. If FEMA determines a facility is eligible for replacement, compliance with current codes and standards for new construction is eligible. If

[328] Stafford Act § 406(e); 42 U.S.C. § 5172(e); 44 C.F.R. § 206.226(d); 44 C.F.R. 206.221(i).
[329] 44 C.F.R. 206.226(d).

FEMA determines a facility is ineligible for replacement, only code-required upgrades applicable to repairs are eligible.

Depending on the type of restoration work, a code or standard may require:

- Upgrades to all structural components; or
- In addition to upgrades to all structural components, upgrading the non-structural components into conformance with current codes or standards for new construction.

Example: Code-Required Upgrade Triggering Further Upgrades

One example of a code-required upgrade triggering further upgrades to additional undamaged structural components may be damages primarily caused by wind and seismic effects to a building resulting in substantial structural damage (SSD) of the gravity load-carrying elements of the facility. This triggers the professional evaluation of the lateral force-resisting elements of the facility and upgrades if the evaluation shows those structural components do not meet International Existing Building Code (IEBC) criteria. SSD, gravity load-carrying elements, and lateral force-resisting elements are defined in the International Existing Building code in terms of capacity loss. Only an evaluation by a licensed professional in compliance with IEBC criteria can determine SSD.

If an upgrade to an entire structural or non-structural system within a building is triggered by an eligible code or standard, the upgrade is only eligible if there is a direct relationship between the upgrade and the eligible work.[330] Eligibility is limited to code compliance for discrete elements within the system that was damaged.

Terminology

Substantial structural damage is defined in the International Existing Building Code in terms of capacity loss and requires evaluation by a licensed engineer and/or retrofitting of certain structural elements beyond the damaged components.

FEMA evaluates the eligibility of the work to upgrade or change the configuration of damaged systems for reasonableness with respect to the type and extent of damage.

Examples: Codes or Standards that Do Not Apply to the Restoration Required

- An applicant requests PA funding for the repair of a damaged building and the construction of a parking garage. The applicant states that while there was no parking garage prior to the incident, zoning codes and other local ordinances now require one. Because parking improvements have no relationship to the disaster-related repairs, they do not apply to the type of restoration required and are ineligible.

[330] 44 C.F.R. § 206.223(a)(1).

- An applicant requests PA funding for a project involving repairs to discrete damaged portions of a road's shoulders. The applicant states that a code or standard that applies to new construction, or the rehabilitation of an entire road, requires the construction of paved shoulders, drainage swales, and berms. Because the improvements, such as drainage swales and berms have no relationship to discrete damaged portions of a road's shoulders, the construction of these improvements is ineligible.

2. APPROPRIATE TO PRE-DISASTER USE

Codes and standards must be appropriate to the pre-disaster use of the facility. FEMA determines the eligibility of code-required upgrades based on the facility's pre-disaster design or actual use at the time of the disaster. The least costly of the following is eligible:

- Pre-disaster use of the facility, if serving the same function for which it was originally designed; or
- Alternate use of the facility, if serving an alternate function at the time of the incident.



Example: Code or Standard Not Appropriate to the Pre-Disaster Facility Use

The original design of a facility was a warehouse; however, the applicant was using the facility as a classroom before the incident. Restoring the facility as a classroom in conformance with classroom codes or standards would not be eligible if it would cost more than restoring the facility as a warehouse in accordance with code or standards applicable to a warehouse. It would be eligible if it would cost the same or less than restoring the facility as a warehouse in accordance with codes or standards applicable to a warehouse.

3. REASONABLE

Codes and standards must be reasonable. FEMA evaluates the eligibility of the work to upgrade or change the configuration of damaged systems for reasonableness with respect to the type and extent of damage. When determining reasonableness, FEMA:

- Examines the general reasonableness of the code or standard and the trigger for application of the code or standard;
- Determines whether the upgrade and trigger relate to the type of restoration required by the damage and whether the upgrade and trigger are justified based on the extent of damage;
- Considers whether the upgrade and the trigger are technically defensible from an engineering perspective; and,
- Determines whether the cost of the upgrade is reasonable.

FEMA may determine a very large upgrade based on a very low trigger to be unreasonable.

4. WRITTEN, FORMALLY ADOPTED, AND IMPLEMENTED

Codes and standards must be in writing, formally adopted by the SLTT government, and implemented by the applicant on or before the declaration date, or be a legal federal requirement, such as an Americans with Disabilities Act (ADA)[331] or seismic safety requirement. The authority that has jurisdiction must:

- Approve the code or standard;
- Make it a matter of public record; and,
- Formally incorporate it into the building code or other applicable ordinance.

The code or standard must apply to the facility in question. For example, if a state has jurisdiction over a particular type of work and formally adopts a code or standard related to that work, a Tribal Nation or local government in that state does not necessarily have to formally adopt the code or standard for it to apply to its facility. The Tribal Nation or local government meets the above requirement if it shows that it has a history of enforcing the code or standard since it was adopted.

FEMA does not recognize codes or standards adopted by a private nonprofit (PNP) specifically for its facilities when determining whether compliance with codes or standards is eligible. FEMA also does not accept codes or standards adopted by agencies or divisions of SLTT governments that are not authorized to set codes or standards within the broad governmental jurisdiction of the SLTT government.



Example: A Standard that is Not in Writing, Formally Adopted, and Implemented

FEMA approves funding to replace a culvert that was washed out by a flood. The state natural resources department denies the applicant's permit application for replacing the culvert and recommends the applicant to construct a bridge instead. The decision of the permitting officials is discretionary and not based on a written and formally adopted code or standard; therefore, the bridge construction is ineligible.

5. APPLIES UNIFORMLY

Codes and standards must apply uniformly to all similar types of facilities, whether private or public, eligible or ineligible, in the applicant's jurisdiction or (if applicable) in a particular hazard zone within its jurisdiction.

For FEMA to find that a code or standard is uniformly applied, the code or standard must meet all of the following conditions. The code or standard must:

- Provide for uniform accountability in the event of noncompliance;
- Not be subject to discretionary enforcement by building or permitting officials; and,
- Not allow for selective application.

A code or standard must meet three tests to demonstrate that it is not selectively applied:

- The upgrade is generally triggered regardless of the cause of damage and is also triggered for renovations or improvements;

[331] For more information, refer to the Accessibility for Individuals with Disabilities section in this chapter.

- The code or standard is applied regardless of the source of funding for the work; and,
- The code or standard is not applied selectively based on the availability of funds.



Example: A Standard that Does Not Apply Uniformly

A local jurisdiction has authority over all facilities, both public and private. A statewide code or standard imposes seismic retrofit requirements for all public buildings, but not for privately-owned buildings. The seismic retrofitting is ineligible as it does not apply uniformly to all similar types of facilities within the applicant's jurisdiction.

6. ENFORCED

The code or standard must have been enforced during the time it was in effect. FEMA provides PA funding for costs related to an upgrade based on confirmation of previous enforcement and in reliance on continued enforcement. If the local jurisdiction subsequently violates this criterion, any additional work to comply with the code or standard is ineligible within the local jurisdiction.

If FEMA determines a jurisdiction has had no reasonable opportunity to enforce the code or standard, the upgrade is eligible with justification. A reasonable opportunity to enforce may be lacking when a code or standard is new or when a facility affected by the code or standard has not been damaged during the time the code or standard was in effect.



Example: A Code or Standard that was Not Enforced While in Effect

A city's building code requires foundation upgrades when installing new or repairing old portable buildings. Prior to the incident, the city allowed for the installation of several new portable buildings without the code-required foundation upgrades. After the incident, the applicant requests funding to upgrade the foundation of several publicly owned portable buildings that have been damaged by the incident, citing the city's building code. The upgrades to the foundation of the damaged portable buildings are ineligible because the applicant had not been enforcing the standard.

D. Ineligible Upgrades

Upgrades recommended by design standards, guidelines, policies, industry practices, or other non-mandatory provisions are ineligible if the provisions do not meet all of the criteria noted in FEMA's consensus-based codes, specifications, and standards or under Codes and Standards Eligibility Criteria in this chapter. Ineligible upgrades include those based on non-mandatory or non-prescriptive standards.

Upgrades FEMA initially deems ineligible but enhance a facility's ability to resist damage in a future incident may be eligible for funding as PA mitigation (see Hazard Mitigation in this chapter) or through FEMA's Hazard Mitigation Grant Program (HMGP)[332].

[332] For more information, refer to: Hazard Mitigation Grant Program (HMGP) | fema.gov.

Additional capacity necessary due to increased population or use of a building, even if required by code, is ineligible.

E. Accessibility for Individuals with Disabilities

The ADA[333] and other disability rights laws, such as the Architectural Barriers Act (ABA), require that all newly constructed facilities be accessible to and usable by individuals with disabilities and that repairs that might affect the ability of individuals with disabilities to use the facility comply with accessibility standards.[334] In some circumstances, FEMA provides PA funding for accessibility compliance requirements. FEMA funded activities and programs must be physically accessible to people with disabilities and access and functional needs.[335] [336]

FEMA provides PA funding regardless of whether the facility was in compliance prior to the incident, provided the applicant was not cited for a violation. If the applicant was notified of being in violation of a requirement prior to the incident and did not bring the facility into compliance, then accessibility requirements related to the violation are ineligible.

Some exceptions apply when ADA requirements threaten or destroy the historic significance of qualified historic buildings and facilities.[337] FEMA addresses these provisions during its consultation with the state historic preservation officer (SHPO) and/or tribal historic preservation officer (THPO) and incorporates them into the agreement regarding the repairs to the building.

FEMA may also provide PA funding for additional SLTT government ADA requirements that meet the eligibility criteria for codes or standards, as described under Locally Adopted Codes and Standards in this chapter.

F. Path of Travel

If the primary function area sustained disaster damage and the path of travel to the primary function area has not sustained damage (or has sustained less damage), FEMA may provide PA funding for reasonable changes required by an eligible code or standard. The purpose is to increase accessibility to undamaged elements that serve the primary function area. These changes may include accessible entrances, accessible path of travel to the primary function area (by ingress and egress), accessible parking, equal access to services (interior routes), and an accessible approach to public areas,

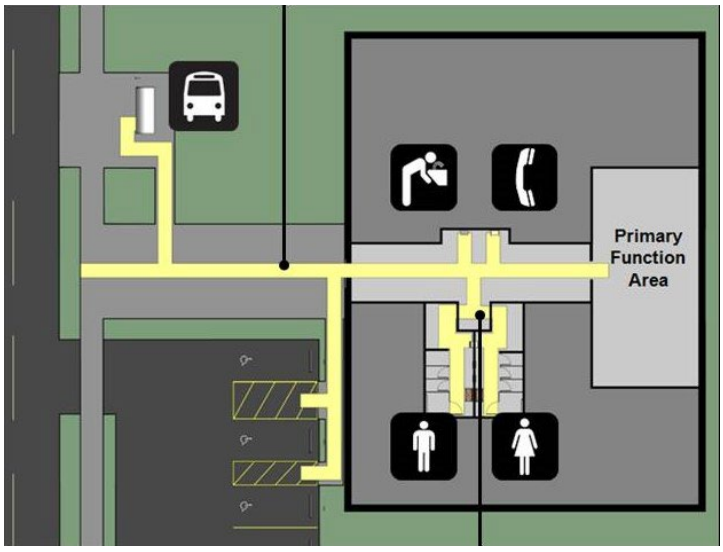


Figure 17. Path of Travel

[333] For more information, refer to: Guide to the ADA Accessibility Standards | access-board.gov.
[334] 42 U.S.C. § 12147(a); 28 C.F.R. § 35.151(b).
[335] Stafford Act, § 308; 42 U.S.C. § 5151.
[336] Section 504 of the Rehabilitation Act of 1973.
[337] 28 C.F.R. § 36.405.

such as restrooms, water fountains, and emergency/evacuation routes.

FEMA may provide PA funding when the code-required alterations have a reasonable and technically supportable relationship to the damaged elements of the facility (e.g., installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls).[338] Applicants are not limited in the amount that they may fund for ADA improvements for their path of travel access, but the PA funding cannot exceed 20 percent[339] of its total funding to restore the primary function area.[340] If the costs for ADA upgrades exceed the 20 percent threshold, the applicant must prioritize elements that will provide the greatest access.[341]

If an applicant engages in repairs that are ineligible for PA funding, the cost of requirements triggered by those repairs are ineligible.

Terminology

A **primary function area** is the area where a major activity occurs for which the facility is intended. Examples include the dining area of a cafeteria, meeting rooms of a conference center, and public offices providing governmental services to the public.

Path of travel includes a continuous, unobstructed way of pedestrian passage to the primary function area. This includes interior and exterior approaches, such as hallways, doorways, sidewalks, streets, parking areas, and public transit drop points. See Figure 17. Path of Travel.

Service facilities to the primary function area include restrooms, telephones, and drinking fountains.

G. Permit Requirements

If a federal or SLTT government permitting agency requires additional work based on a code or standard that does not meet the criteria under Codes and Standards Eligibility Criteria in this chapter, the cost of the additional work is only eligible if the work:

- Does not change the pre-disaster size, capacity, or function of the facility;
- Applies to the type of repair or restoration required;
- Is reasonable based on the type and extent of damage; and,
- Is an established, enforced, uniform practice that applies to all similar types of facilities within the applicant's jurisdiction, regardless of the circumstance.

[338] 28 C.F.R. § 35.151(b)(4)(iii)(B)(2).
[339] For calculation purposes, the total costs of the primary function area repair include the repair costs of the roof, heating, ventilation, and air conditioning (HVAC) systems, mechanical rooms, janitorial closets, locker rooms, and private offices directly associated with the repair of the primary function area.
[340] 28 C.F.R. § 35.151(b)(4)(iii)(A).
[341] 28 C.F.R. § 36.403 (g)(2).

H. Additional Resources

Applicants are encouraged to visit FEMA's Building Science Resource Library[342] for additional information on the contents and potential applicability of select building codes that FEMA supports. These include appropriate building codes, standards, specifications, and national or local floodplain management ordinance compliance. If a community has adopted and enforces local building codes, floodplain management requirements must be met for all construction located in a special flood hazard area. Compliance with the minimum codes and standards do not always guarantee compliance with national or local floodplain management ordinances.

III. Hazard Mitigation

Additional funding to protect an applicant's facilities may be eligible as PA hazard mitigation.[343] Hazard mitigation[344] measures are those taken to help avoid repetitive damage from multiple disasters, reduce the potential for future damage to an eligible facility, and provide long-term solutions to the increasing frequency and severity of natural hazards. PA hazard mitigation allows work beyond code and standard requirements. In cases where the proposed resilience measure(s) exceed a code or standard requirement, eligibility is evaluated based on the work that is above and beyond the code requirements. Upgrades required to meet applicable codes and standards are not mitigation measures because these measures are part of eligible restoration work.

Approved PA hazard mitigation measures are considered part of the total eligible cost of repair, restoration, or reconstruction of a facility. In cases where the eligible repair costs are fully covered by insurance, the PA hazard mitigation may still be eligible if the "total eligible project cost," including mitigation, meets or exceeds the minimum project threshold.

A. Eligibility Criteria

FEMA evaluates proposed PA mitigation measures for eligibility, cost-effectiveness, technical feasibility and effectiveness, and compliance with Environmental and Historic Preservation (EHP) laws, regulations, and executive orders (EOs). In addition, FEMA ensures that the mitigation does not negatively impact the facility's operation or surrounding areas or create susceptibility to damage from another hazard. FEMA provides PA funding for engineering analysis and design services, including surveys, to develop a potential hazard mitigation proposal (HMP) if the work is included in the approved mitigation scope of work (SOW) and the work has been completed.

To be eligible for PA hazard mitigation funding, measures must directly reduce potential for future damage to the damaged portion(s) of the facility, meet cost-effectiveness criteria, and comply with all other federal,

[342] For more information, refer to: FEMA Building Science Resource Library | fema.gov.
[343] FEMA also refers to PA hazard mitigation as 406 mitigation. Section 406 of the Stafford Act provides funding for cost-effective measures that increase the resilience of disaster damaged facilities against future incidents.
[344] 44 C.F.R. § 206.2(a)(14).

state, local, tribal, and territorial legal requirements. PA hazard mitigation may only be included in facility restoration permanent work (categories C-G) projects, not emergency work projects.

Details about each of these requirements are discussed in the following paragraphs.

B. Future Damage Reduction

To ensure protection of the disaster-damaged facility, FEMA evaluates proposed measures to determine feasibility and the capability of the mitigation measure to protect against disaster damages, regardless of hazard type.

Generally, eligible PA mitigation measures are those that applicants perform on damaged portion(s) of a facility. PA mitigation measures protecting damaged portion(s) of a facility may also protect other portions of the facility. If an applicant proposes mitigation measures that are distinct and separate from the damaged portion(s) of the facility, FEMA evaluates the proposal and determines eligibility based on how the measures protect the damaged portion(s) of the facility.



Examples: Potentially Eligible Hazard Mitigation Measures That are Not Applied Directly to the Damaged Portion of the Facility

Examples of eligible PA hazard mitigation measures that may be separate and distinct from the damaged portion(s) of a facility include, but are not limited to:

- Constructing floodwalls or vegetated swales around damaged facilities;
- Installing new drainage structures (including culverts or permeable pavements) along a damaged road;
- Applying fire-resistant materials and/or creating defensible space around eligible facilities; and,
- Dry floodproofing both damaged and undamaged buildings that contain components of a system that are functionally interdependent (i.e., when the entire system is jeopardized if any one component of the system fails).

If FEMA determines that mitigation measures are ineligible as PA hazard mitigation (e.g., the mitigation measures do not protect the damaged portions of the facility against future risk), applicants may request to use hazard mitigation funding under FEMA's Hazard Mitigation Grant Program (HMGP). This provides protection to undamaged portions, while utilizing PA mitigation funds to provide protection to damaged portions.[345] Applicants may use both PA hazard mitigation and HMGP mitigation funds to implement mitigation measures on the same facility, but not for the same work.

If FEMA approves PA funding for mitigation and the applicant does not complete the PA mitigation work, FEMA will deobligate the PA mitigation funds.

[345] For more information, refer to: Hazard Mitigation Grant Program (HMGP) | fema.gov.

1. COST EFFECTIVENESS

To be eligible for PA hazard mitigation funding, mitigation measures must be cost effective.[346] FEMA considers PA hazard mitigation measures to be cost-effective if any of the following criteria are met:

- The cost for the mitigation measure does not exceed 15 percent of the total eligible repair cost (prior to any insurance reductions) of the facility or facilities for which the mitigation measure applies; or
- The mitigation measure is specifically listed in Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures and the cost of the mitigation measure does not exceed 100 percent of the eligible repair cost (prior to any insurance reductions) of the facility or facilities for which the mitigation measure applies; or
- The recipient or applicant demonstrates through an acceptable benefit-cost analysis (BCA) methodology that the measure is cost-effective, including FEMA's list of mitigation measures pre-determined to be cost-effective, using the FEMA BCA Toolkit.[347]
    - Hazard mitigation measures that do not meet the first two requirements above may prove to be cost-effective based on a BCA. If the hazard mitigation measure is not cost-effective based on the first two criteria, FEMA and the applicant will work together to develop a BCA to determine whether it is cost effective.

A BCA is based on a comparison of the total estimated cost for the PA hazard mitigation measure to the total value of expected benefits to society. FEMA's BCA methodology considers common project benefits, which include reductions in the magnitude or frequency of:

- Damage to the facility and its contents;
- The need for emergency protective measures;
- The need for temporary facilities;
- Loss of function;
- Casualties (typically included only for earthquake, tornado, and wildfire mitigation); and,
- Previous impacts regardless of whether the impacts occurred in federal disaster declarations (only if documented).

FEMA's BCA methodology also considers additional social, environmental, and other benefits that do not directly impact hazard mitigation.

2. COMPLIANCE WITH LEGAL REQUIREMENTS

To be eligible for PA hazard mitigation funding, mitigation measures must comply with applicable laws, regulations, and EOs as well as any federal or SLTT requirements. These may be different from an applicant's usual construction project compliance items.

Compliance with codes and standards may be required. FEMA evaluates the project's SOW under all codes and standards requirements to determine eligibility (see Codes and Standards in this chapter). Resilience measures that are more stringent than codes and standards are implemented as PA hazard mitigation. If an applicant identifies different locally adopted codes, specifications or standards that are the equivalent to or

[346] 44 C.F.R. § 206.226(e).
[347] For more information, refer to: FEMA BCA Toolkit | fema.gov.

more stringent than the consensus-based codes, specifications and standards, FEMA requires the applicant's engineer, design professional, or other qualified individual to demonstrate that the hazard-resistant design criteria in the locally adopted code, specification or standard is equivalent to or more stringent than those approved under FEMA's consensus-based codes, specifications, and standards.[348]

3. PROPOSING PA HAZARD MITIGATION

An applicant, recipient, or FEMA may recommend that PA hazard mitigation measures be included in a project. Figure 18. PA Hazard Mitigation Process Flowchart provides an overview of the steps in the PA hazard mitigation process.

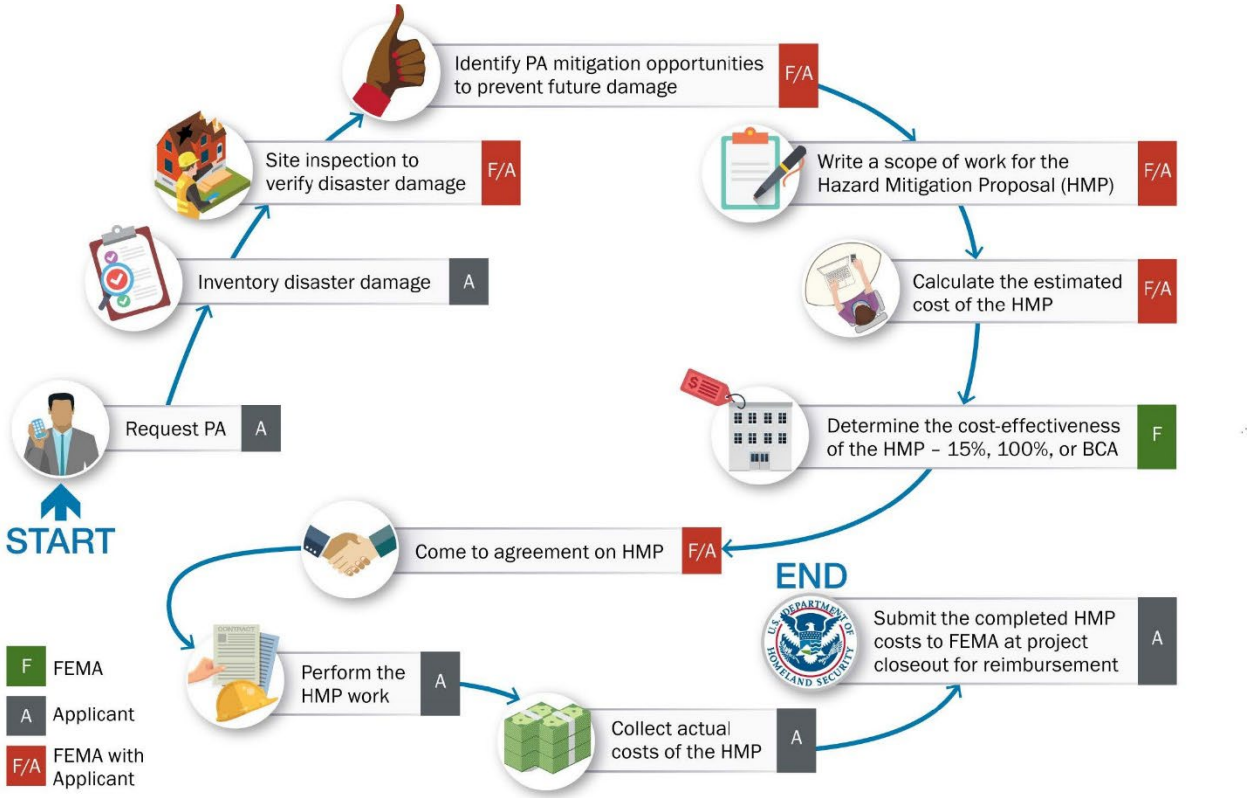


Figure 18. PA Hazard Mitigation Process Flowchart

Applicants may request assistance from FEMA hazard mitigation staff to identify and develop proposed hazard mitigation measures for their facility. These hazard mitigation measures are included in PA permanent work projects via hazard mitigation proposals (HMPs).

[348] For more information, refer to Consensus-Based Codes, Specifications, and Standards in this chapter.

4. REDUCE ADVERSE IMPACTS

To reduce risk, applicants should design hazard mitigation measures to reduce susceptibility to another hazard, adverse impacts to facility operation, and adverse impacts to surrounding areas.

5. POST-REPAIR HAZARD MITIGATION

PA hazard mitigation opportunities usually present themselves during facility repair. However, in cases where applicants need to repair a facility in an expedited manner, an applicant may miss an opportunity to implement hazard mitigation measures during repair. If an applicant implements hazard mitigation measures on a completed PA-funded repair, the mitigation work may still be eligible for PA funding; however, FEMA will not provide PA funding for any duplicative work triggered by the subsequent hazard mitigation.

6. COMPLETED HAZARD MITIGATION ELIGIBILITY

In some instances, applicants may implement hazard mitigation measures after the incident occurs but before the incident is declared or before FEMA can evaluate the measure for eligibility. In these cases, the hazard mitigation work may still be eligible for PA funding if it is cost effective and FEMA confirms compliance with applicable EHP laws, regulations, and executive orders (EOs).

7. NATURE-BASED SOLUTIONS

Nature-based solutions are sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to promote adaptation and resilience. These solutions use natural features and processes to reduce flood risk, improve water quality, protect coastal property, restore, and protect wetlands, stabilize shorelines, reduce urban heat, add recreational space, and more.

Nature-based solutions offer significant monetary and non-monetary benefits. They often come at a lower cost than traditional infrastructure. These benefits include economic growth, increased property values, and better public health.

FEMA uses the term "nature-based solutions"[349] to refer to an umbrella of strategies, including nature or nature-based features. Other agencies may also use the terms "engineering with nature" or "nature-based approaches".

Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures lists numerous cost-effective nature-based hazard mitigation features, including live fascines, vegetated geogrids, live crib walls, brush mattresses, bioswales, and rain gardens. Other nature-based solutions are eligible as PA hazard mitigation, provided they meet all eligibility requirements.

[349] For more information, refer to: Nature-Based Solutions | fema.gov.

C. Historic Preservation Compliance

1. FEDERAL REQUIREMENT

If the facility is listed in, or meets the criteria to be listed in, the National Register of Historic Places, and an applicable code or standard requires repair in a certain manner, costs associated with work to comply with that code or standard are eligible, even if repair costs exceed replacement costs. This is an exception to the regulatory requirement that when a facility is eligible for replacement, FEMA limits eligible costs to the less expensive of repairs or replacement (see Repair vs. Replacement in this chapter).[350]

2. STATE, TRIBAL NATION, OR TERRITORIAL GOVERNMENT REQUIREMENT

If a state and territorial historic building code or standard requires specific work be performed, FEMA evaluates the code or standard using the eligibility criteria provided under the Codes and Standards section in this chapter. Most state historic building codes and standards encourage code officials to allow *less* intrusive alternatives to requirements of the prevailing codes or standards, but do not require any particular work be performed. As a result, the codes and standards usually fail to meet the eligibility criteria.

Tribal Nation historic preservation allows tribes to protect and identify historic places in ways that align with tribal values. These duties can include enforcing preservation laws, identifying and nominating historic places, and preserving traditional cultural properties.

D. Public Assistance Mitigation Funds for Capped Projects

1. IMPROVED PROJECT

Improved projects that involve facility replacement or relocation can include mitigation funding. If the capped amount for an improved project includes PA mitigation funds and the applicant either does not complete the PA mitigation work, or replaces or relocates the original facility, FEMA deobligates the PA mitigation funds.

2. ALTERNATE PROJECT

If the SOW to restore a facility includes PA mitigation, and the applicant elects to proceed with an alternate project, FEMA does not include costs related to the PA mitigation in the capped amount for the alternate project.

E. Construction Method

FEMA considers changes to the pre-disaster design or construction method (including materials) and can approve them if the changes are required due to access or accessibility issues, site conditions, or to tie into existing infrastructure. The changes must not impact the capacity or function of the facility. Applicants must show that the changes are reasonable based on the type and extent of restoration and are consistent with their general construction practices and legal requirements. Codes and standards may also require changes to pre-disaster design or construction methods.

[350] 44 C.F.R. § 206.226(f)(2) and (3).

F. Pre-Existing Site Conditions

In cases where unrepaired, pre-existing conditions may compromise repair of disaster damage, FEMA provides PA funding to repair disaster damage contingent upon the applicant repairing the pre-existing damage. The costs associated with repairing the pre-existing damage are the responsibility of the applicant. For example, FEMA may determine that repairs to a damaged bridge deck are eligible. However, the deck cannot be repaired unless the applicant replaces the rotting timbers that support the deck.

IV. Flexible Restoration (Capped Projects)

FEMA offers flexible options that allow applicants to use PA funding for permanent work in ways other than restoring a facility to its pre-disaster design and function. For these options, FEMA limits (or "caps") the PA funding to the amount it would cost to repair or rebuild the facility as it was before the disaster, including costs for meeting current eligible codes and standards, as outlined in the Codes and Standards section of this chapter. Temporary facility funds are not included in fixed-cost projects. The three capped project options are: improved projects, alternate projects, and alternative procedures projects (see Appendix G: Alternative Procedures).

A. Processing Projects with Capped Funding

Sometimes during the development of the SOW, applicants realize that restoring a damaged facility to its original condition may not be the best choice for the community's recovery. If this decision is made before the project is formulated, a best practice is to submit the project without adding additional damages or scopes of work. This ensures that the project can be reviewed and processed more smoothly, without interference from other faster-moving project reviews in the PA process.

However, in many cases, the decision to pursue an alternative to restoring the facility or improving the facility (beyond codes and standards upgrades and mitigation measures) may be made after the project is formulated and obligated. In such situations, only the site opting for an alternate or improved project will have its funding capped. Other sites within the project will follow the standard process for small or large projects, based on the total project cost after any reductions. Applicants choosing a capped project must first obtain approval from their recipient before moving forward.

B. Improved Project

Applicants may wish to make improvements to a damaged facility that are not required by eligible codes or standards, such as adding a new gymnasium to a school building or relocating a building outside a flood-prone area. An improved project is a project that restores the pre-disaster function of a facility and incorporates improvements or changes (including capacity changes) to the pre-disaster design. These changes may also include a facility replacement and/or hazard mitigation.

FEMA limits PA funding for an improved project to the lesser of the following:

- The federal share of the approved estimate to restore the damaged facility to its pre-disaster design and function; or

- The federal share of the actual costs of completing the improved project.

FEMA only increases eligible funding for an improved project if the applicant identifies an error or omission in the original scope of work or cost estimate related to restoring the facility to its pre-disaster design and function.

1. USE OF IMPROVED PROJECT FUNDS

Applicants may use improved project funds to improve the damaged facility. The facility must have the same function that existed immediately prior to the disaster. An applicant must obtain approval from their recipient before proceeding with an improved project.[351] The following are examples of improved projects:

- Laying asphalt on a gravel road;
- Replacing a firehouse that originally had two bays with a firehouse that has three bays;
- Incorporating requirements dictated by a code or standard that does not meet PA eligibility criteria; and,
- Relocating a facility when FEMA is not requiring the relocation.

The funding available for PA hazard mitigation for an improved project is limited to the amount that would have been available if the facility had been restored to its pre-disaster design. If the capped amount for an improved project includes PA mitigation funds and the applicant either does not complete the PA mitigation work or replaces or relocates the original facility, FEMA deobligates the PA mitigation funds.

Applicants can combine PA funds with funding from another federal agency to construct the improved project. However, FEMA cannot duplicate funds provided by another federal agency for the same work. In addition, applicants cannot use funding from another federal agency toward the non-federal cost share of the PA-funded project, with few exceptions. U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant – Disaster Recovery Program (CDBG-DR) is an example of a federal program that, in certain circumstances, may be used to meet the non-federal share of FEMA's PA program.[352]

If the improved project significantly changes the pre-disaster configuration of the facility, the recipient must forward the request to FEMA to ensure that the improved project complies with appropriate EHP laws, regulations, and EOs.

C. Alternate Project

Applicants may determine that the public welfare is not best served by restoring the pre-disaster function of the damaged facility. When this occurs, the applicant must obtain FEMA's approval to apply PA funding toward a different facility (or facilities). FEMA refers to this as an alternate project. The alternate project must be a permanent work project that benefits the general public, serving the same general area that was being served by the original facility. See Chapter 10: Environmental and Historic Preservation for more information on the limitations and requirements for the disposition of the original facility.

[351] 44 C.F.R. § 206.203(d)(1).
[352] For more information, refer to: *FEMA-HUD CDBG-DR Flexible Match Implementation Guide*.

FEMA limits federal funding for an alternate project to the lesser of:

- The federal share of the approved estimate to restore the damaged facility to its pre-disaster design and function; or
- The federal share of the actual cost of completing the alternate project.[353]

1. USE OF ALTERNATE PROJECT FUNDS

Applicants may use alternate project funds toward a project that does not restore the pre-disaster function of the damaged facility. This includes the ability to:

- Repair, expand, mitigate, or construct a facility that would otherwise be an eligible facility under the PA Program;[354]
- Demolish facilities;
- Purchase capital equipment that has a useful life of at least 1 year and is equal to, or greater than, $10,000 per unit;
- Fund project shortfalls due to mandatory flood insurance reductions[355] taken from PA Program funding for repairs to buildings in special flood hazard areas (SFHAs);
- Supplement funds for an improved project; and,
- Conduct cost-effective hazard mitigation measures, regardless of whether the facility was damaged by the incident and whether the measures reduce the risk of future damage from the same type of incident or of the same type of damage caused by the incident.

Alternate project funds may be used for hazard mitigation provided that:

- Funding does not duplicate other FEMA mitigation funding; and,
- Measures reduce the risk of future damage to a facility that is otherwise eligible either under the PA or Hazard Mitigation Assistance (HMA) programs. If the measures are the same type as those eligible for HMA funding, they must meet a need for governmental services and functions or eligible PNP services and functions in the area affected by the incident.

If an alternate project involves construction, the applicant must obtain FEMA approval prior to the start of construction as FEMA must ensure that it complies with appropriate EHP laws, regulations, and EOs.[356] If the SOW to restore a facility includes PA mitigation, and the applicant elects to proceed with an alternate project, FEMA does not include costs related to the PA mitigation in the capped amount for the alternate project.

Applicants may not use alternate project funds to:

- Meet budget shortfalls;
- Create a new community plan;

[353] 44 C.F.R. § 206.203(d)(2)(ii) and (iii).
[354] 44 C.F.R. § 206.203(d)(2)(iv).
[355] For more information, refer to the National Flood Insurance Program section in this chapter).
[356] 44 C.F.R. § 206.203(d)(2)(v).

- Landscape;
- Pay for operating expenses;[357]
- Purchase supplies, furniture, or equipment costing less than $10,000 per unit;
- Pay the non-federal share of any PA project;[358]
- Fund buyouts for mitigation, such as acquisition of flood-prone property to create open space;
- Supplement funds on projects that utilize other federal agency grants; or
- Fund a project located in a FEMA-designated floodway.

V. Eligibility Considerations by Facility

This section details the types of facilities captured within each category (C-G) of permanent work along with specific eligibility criteria related to one or more of the facilities within each category. See Appendix I: Work Eligibility Considerations by Type of Facility for a summary of eligibility by facility type.

A. Roads and Bridges (Category C)

1. COMPONENTS

Roads may be paved, gravel, or dirt. Road components include, but may not be limited to:

- Surfaces;
- Bases;
- Shoulders;
- Ditches;
- Drainage structures, such as culverts, vegetated swales, and water bars,
- Low water crossings, inlets, outfalls, swales; and,
- Associated facilities, such as lighting, sidewalks, guardrails, and signs.

Bridge components include, but may not be limited to:

- Decking;
- Guardrails;
- Girders;
- Pavement;
- Abutments;
- Piers;
- Slope protection;
- Approaches; and,

[357] Ibid.
[358] 44 C.F.R. § 206.203(d)(2)(v).

- Associated facilities, such as lighting, sidewalks, and signs.

2. ROAD AND BRIDGE ELIGIBILITY FOR PERMANENT WORK

Public roads are any publicly-owned, non-federal aid street, road, or highway for which an eligible applicant has legal responsibility. Some private non-profit applicants may have eligible roads and sidewalks, such as on a school campus.

FEMA is prohibited from providing PA funding when another federal agency has specific authority to restore facilities damaged or destroyed by an event which receives a major disaster declaration. However, if a Tribal Nation has received funding from the Bureau of Indian Affairs (BIA) or FHWA for construction or maintenance of their roads, those roads are still eligible for PA funding under presidentially declared major disasters for debris removal, emergency protective measures and permanent restoration, if they meet the other eligibility requirements. Tribal roads that receive FHWA Emergency Relief (ER) Program[359] funding continue to be ineligible for PA funding for permanent restoration. Additionally, roads owned by a Tribal Nation are eligible for PA even if they are not open to the general public.

FHWA has authority to restore public roads and bridges under the Emergency Relief (ER) Program. Roads and bridges that are eligible for ER assistance are identified as federal-aid routes, which include highways on the federal-aid highway system and all other public roads not classified as local roads or rural minor collectors and includes all elements within the cross section of a highway that are damaged as a direct result of a qualifying disaster.

The ER Program is activated separately from presidential declarations under the Stafford Act and may not be activated for all incidents. Federal-aid routes and ancillary facilities are ineligible for permanent work even if the ER Program is not activated or if the program is activated but FHWA does not provide funding for the work. FHWA also has authority to assist with restoration of transportation facilities under the Emergency Relief for Federally Owned Roads (ERFO) Program, including tribal transportation facilities, federal land transportation facilities, and other federally owned roads open to public travel under the ERFO program.[360]

Private roads are those that are not owned or operated by or otherwise the legal responsibility of a federal or SLTT entity (including orphan roads, roads in gated communities, homeowners' association roads, etc.). These roads are ineligible.

3. TYPES OF DAMAGE

The repair of damage to eligible roads and bridges caused by the disaster event is eligible under the PA Program.

The incident may cause minor damage to roads that results in damage similar to that which may occur over time from other causes, such as the age of the road, traffic flow, and frequent rain. Costs related to maintenance of roads are ineligible. Work to repair potholes or fatigue cracking is usually ineligible as this

[359] For more information, refer to: Emergency Relief Program - Federal Highway Administration | dot.gov.
[360] For more information, refer to: Emergency Relief for Federally Owned Roads (ERFO) | dot.gov.

type of damage is rarely caused directly by one incident. Different types of damage to roads caused by flooding are discussed below.

i. Deterioration, Deferred Maintenance, Negligence

FEMA does not provide PA funding for repair of damage caused by deterioration, deferred maintenance, the applicant's failure to take measures to protect a facility from further damage, or negligence. When evaluating eligibility of reported road damage, in addition to evaluating how the incident caused the damage, FEMA reviews maintenance records or documentation establishing that the applicant has a routine maintenance program. In the absence of maintenance records, FEMA reviews material purchase invoices and activity logs and inspects other sections of the applicant's road system to confirm the performance of regular maintenance activities. More information on maintenance documentation requirements is available in Chapter 4: General Facility and Work Eligibility.

ii. Scour and Erosion

Work to repair scour and erosion damage to a channel or stream bank is only eligible if the repair is necessary to restore the integral ground of an eligible road, bridge, culvert, or drainage structure. Earthwork in a channel or stream embankment that is not related to restoring the structural integrity of an eligible facility is ineligible.

Work which involves replacing or upsizing drainage structures or culverts, or may have an adverse impact upstream or downstream, or on critical habitats, will require coordination with PA, EHP, and PA hazard mitigation staff to determine whether a hydrologic and hydraulic (H&H) study is needed. H&H studies are part of eligible permanent work projects and project costs (see Facility Located in or Impacting a Floodplain in this chapter).

4. INUNDATED AND SUBMERGED ROADS

Restoration of sections of road with disaster-related surface damage will follow the guidance described above for roads and bridges. The guidance provided in this section explains the eligibility of funding for roads for which disaster damage is due to flood water inundation as a direct result of a federally declared major disaster. A submerged or inundated road is defined as a section of road that is covered by flood waters for any period of time. The inundation must have occurred as a direct result of a federally declared major disaster. When roads are inundated or submerged from flooding, driving on them can compromise the integrity of the road. When damage occurs on roads that have been inundated by flood water, FEMA provides funding for the repair when an applicant can substantiate the following conditions:

- The road is a public road;
- The road has visible (after flood waters have receded) and quantifiable damage that is a direct result of the major disaster, such as washouts, collapses, and slips; and,
- Traffic-induced surface damage is the result of emergency vehicles performing eligible emergency work or the road is a single-access road that is required to be reopened due to lack of detour/alternate routes.

i. Inundated Roads with Visible Damage

Work to repair road surface damage caused by the declared event (including damage from saturation and flood water inundation) that is visible and quantifiable during inspection once flood waters have receded, and directly attributed to the declared event is eligible for PA funding.

Examples of major visible and quantifiable surface damage caused by the declared event includes, but is not limited to, major erosion, washouts, collapses, and slips. Minor surface damage to roads caused by the declared event is often similar to damage that may occur over time from other causes, such as the age of the road, traffic volume, and frequent rain.

Distinguishing between pre-existing damage and minor damage caused by the declared event may be difficult. Distress evident on the surface, such as potholes or fatigue cracking is generally ineligible for repair as this type of damage is rarely caused directly by one incident.

When evaluating whether eligibility of reported damage to a road that was inundated or submerged was caused by the declared event, FEMA will evaluate the pre-disaster condition of the road and how the incident caused the damage.

a. Documentation to Support Claimed Damage

The minimum documentation to support damage to inundated or submerged roads includes:

Table 23. Required Documentation and Information to Support Damage to Inundated or Submerged Roads

For Small and Large Projects
▪ Pre-disaster and post-event photos or videos of impacted sections of road, or other documentation to demonstrate pre- and post-event surface condition. ▪ Maintenance records or other documentation establishing that the applicant has a routine maintenance program. These maintenance records may include, if applicable: bridge inspection reports, public meeting or contract work records, documentation of a pavement evaluation program or pavement management system (e.g., a regular documented pavement inspection using standards found in Distress Identification Manual for the Long-Term Pavement Performance Program);[361] and, ▪ Documentation of any repairs following pre-disaster assessment, specific to each section of road claimed and/or documentation of any post-disaster repair work already completed, specific to each section of road claimed.

In the absence of those records, FEMA reviews material purchase invoices and activity logs (and whatever documentation is available) to determine if the damage was caused by the event. FEMA may review specific other sections of an applicant's road system to confirm the performance of regular maintenance activities and to assist in making an informed decision on the condition of the road at the time the disaster occurred.

[361] For more information, refer to: DOT's *Distress Identification Manual for the Long-Term Pavement Performance Program (Fifth Revised Edition)*.

FEMA does not provide PA funding for repair of damage caused by deterioration, deferred maintenance, an applicant's failure to take measures to protect a facility from further damage, or negligence.

ii. Inundated Roads without Visible Surface Damage

Restoration work for roads that have experienced inundation by flood waters as a direct result of a declared event is only eligible for PA funding if surface damage is visible and quantifiable during an inspection after the flood waters have receded. Claims of subsurface damage based on the findings of an inspection for sections of road without visible and quantifiable surface damage will not be considered eligible for PA funding. Accordingly, costs associated with methods of inspection on sections of road without visible and quantifiable surface damage are not eligible for PA reimbursement. This includes destructive and non-destructive methods of inspection, such as ground-penetrating radar, core sampling, soil boring, and falling weight deflectometers.

a. Projected Loss of Useful Service Life

Restoration work based on a projected loss of useful service life (that is the potential reduction in the road's remaining service life) is ineligible because it is not damage caused by the major disaster event. Service life is part of the design of roadways. Loss of useful service life is based on aging and use of the roadway.[362] For example, if an applicant is claiming subsurface deterioration of a section of road that has experienced inundation based on the findings of an inspection,[363] this alone does not constitute disaster-related damage eligible for PA funding since such deterioration is not caused by a single incident but is the result of the use of the road and normal weather conditions over time.

iii. Surface Damage Resulting from Reopening Roads Prematurely

To help avoid damage to roads that have been inundated or had underlying layers saturated, applicants should allow time for saturated underlying layers and soil to dry out prior to reopening roads to normal traffic. If saturated roads are re-opened prematurely, they may sustain traffic-induced damage. This damage is not a direct result of the disaster and may constitute negligence. Therefore, it is not usually eligible for PA funding.[364]

Exceptions include:

- Surface damage caused by vehicles performing eligible debris removal or other emergency work under PA necessary as a result of the declared event, or
- Single-access roads that an applicant determined were required to be reopened for emergency response purposes due to lack of detour/alternate routes.

[362] See Loss of Useful Service Life in Chapter 6.
[363] Including destructive and non-destructive methods of inspection, such as ground-penetrating radar, core sampling, soil boring, and falling weight deflectometers.
[364] See 44 C.F.R. §§206.223(a)(1) and (e).

In such cases, the applicant must provide documentation to justify reopening the road prematurely as described below:

Table 24. Required Information to Support Damage Resulting from Reopening Roads Prematurely

For Small and Large Projects
▪ An explanation/justification for reopening the road prior to allowing saturated soil to dry (such as emergency response, the performance of eligible PA emergency protective measures, or emergency access); ▪ For emergency response traffic, documentation of emergency call logs and a map showing the route taken by the emergency vehicle(s); or ▪ If claiming surface damage from normal traffic loads due to reopening a single-access road immediately following the declared event or once flood waters have receded, documentation to support that no detour or alternate route was available, and the road was required to reopen for emergency access.

iv. Closed Basin Flooding

Closed basin flooding[365] can result in roads that remain submerged indefinitely as water is not able to drain from closed basin areas. In such cases, waiting for flood waters to recede may not be feasible to assess potential damage and provide time extensions safely and effectively. PA funding may be used to raise the grades of eligible sections of road faced with long-term loss of use due to an unprecedented rise in closed basin water level when closed basin flooding is directly attributed to the declared event.

PA funding is generally limited to grade raises of highways and bridges of critical routes projected to experience long-term loss of use due to closed basin flooding, as demonstrated by an applicant. Only those routes that are critical to restoring traffic service are eligible for grade raises. Factors to evaluate whether individual routes are critical include: functional classification; provision of critical or essential community services (such as access for emergency response, schools, and mail/delivery vehicles); and availability of alternate routes and/or detours. FEMA, in coordination with the recipient and applicant, will determine if the claimed roadway is a critical route and eligible for grade raises based on the applicant's request for impacted sections of roads in closed basin flooding areas. It is not the intent of the PA Program to raise the grades in dips or other low spots along roadways that suffer inundation from chronic flooding problems.

If requested by an applicant, FEMA will also consider permanent reroutes to move roadways outside of closed basin flooding areas instead of grade raises if the applicant can demonstrate that a permanent reroute is more cost effective than grade raises. Reroutes are subject to relocation requirements as well as EHP review and approval to ensure the reroute does not have adverse impacts.

a. Documentation to Support Claimed Damage for Closed Basin Flooding

Permanent work, including raising the grade of the roadway, is only eligible if an applicant can demonstrate all of the following for closed basin flooding:

[365] For more information, refer to: FHWA Emergency Relief Manual | dot.gov.

Table 25. Required Documentation and Information to Support Closed Basin Flooding

For Small and Large Projects
▪ Information to support that the submerged section of road is in a closed basin flooding area; ▪ Information to support the closed basin flooding was directly attributed to the declared major disaster event and the long-term loss of use of critical routes; ▪ For long-term loss of use of critical routes, information demonstrating the length of time the roadway has been closed to traffic and is projected to remain closed to traffic based on the basin water level elevations that occurred as a direct result of the declared major disaster event; and ▪ For closed basin flooding as a direct result of the declared major disaster event: ○ Information showing that the water elevation in the closed basin has reached historically high levels; ○ The rise in the water level occurred during the designated incident period; ○ Historic water level elevation and rainfall intensity records; and/or, ○ Maintenance reports or other information that provides some historical perspective on events and water levels within the closed basin.

v. Gravel Roads

Gravel surface loss from damage or inundation is not assumed and cannot be based on projected or estimated loss. Applicants must be able to demonstrate actual gravel surface loss. This includes documentation indicating gravel loss directly attributed to the declared event (such as work logs and material invoices quantifying the amount of aggregate gravel placed in the damaged section within 12 months of the start of the incident period) and/or photographs or video of the field of displaced gravel.

If an applicant chooses to lay gravel on a longer section of the road, FEMA only reimburses for the portion of the road that was disaster damaged. Gravel laid on non-disaster damaged sections of the road are not eligible.

Corrugation of gravel roads is not eligible for repair or restoration. Corrugation (or "wash boarding") is associated with traffic in dry conditions and not attributable to inundation.



Terminology

Corrugation or "washboarding" comprises a series of ripples which occur with the passage of wheels rolling over unpaved roads at speeds sufficient to cause bouncing of the wheel on the initially unrippled surface.

Rutting of a roadway is a depression or groove worn into the surface of the road due to heavy traffic loads or wear over time. For gravel roads, rutting is generally removed by re-grading the road surface.

Any post event rutting of gravel roads may be the result of premature opening of the road. Consequently, the rutting is not eligible except under the limited circumstances outlined below.

a. Documentation and Information to Support Gravel Loss

Table 26. Required Documentation and Information to Support Gravel Loss

For Small and Large Projects
▪ Documentation indicating gravel loss directly attributed to the declared event (e.g., work logs and material invoices quantifying the amount of aggregate gravel placed in the damaged section within 12 months of the start of the incident period); and, ▪ Photographs or video of the field of displaced gravel.

b. Documentation and Information to Support Gravel Road Rutting

Table 27. Required Documentation and Information to Support Gravel Road Rutting

For Small and Large Projects
▪ For emergency response traffic, documentation of emergency call logs and a map showing the route taken by the emergency vehicle(s); and, ▪ If claiming rutting from normal traffic loads due to reopening a single-access road immediately following the declared event or once flood waters have receded, documentation, such as a work log, indicating that the rutted section of road was graded, and surface aggregate applied prior to the event.

5. DEMONSTRATING DISASTER-RELATED DAMAGE

Submerged roads should only be assessed for visible and quantifiable surface damage after flood waters have receded to avoid additional damage. Applicants must substantiate surface damage claims with supporting documentation as described below. FEMA will not accept a damage report simply based on a claim that a section of road has experienced inundation without demonstrating any resulting surface damage. Similarly, damage repair to an inundated or submerged road is not assumed to be eligible simply because estimated repair costs were included in a joint preliminary damage assessment.

B. Water Control Facilities (Category D)

Water control facilities are those facilities built for the following purposes:

- Channel alignment;
- Recreation;
- Navigation;
- Land reclamation;
- Irrigation;
- Maintenance of fish and wildlife habitat;
- Interior drainage;
- Erosion prevention;
- Flood control; or
- Storm water management.

They include:

- Dams and reservoirs;
- Levees and floodwalls;
- Lined and unlined engineered drainage channels;
- Canals;
- Aqueducts;
- Acequias
- Sediment and debris basins;
- Storm water retention and detention basins;
- Urban stormwater management infrastructure;
- Coastal shoreline protective devices;
- Irrigation facilities;
- Pumping facilities; and,
- Navigational waterways and shipping channels.

1. RESTORING THE CAPACITY OF CHANNELS, BASINS, AND RESERVOIRS

Restoring the pre-disaster carrying or storage capacity of engineered channels, debris and sediment basins, storm water detention and retention basins, and reservoirs is eligible, if the facilities were not constructed by a federal agency and if the applicant provides documentation to establish the following (see Table 28. Required Documentation and Information to Support Pre-Incident Capacity of Channels, Basins, and Reservoirs).

Table 28. Required Documentation and Information to Support Pre-Incident Capacity of Channels, Basins, and Reservoirs

For Small and Large Projects
▪ The pre-disaster capacity of the facility;[366] and, ▪ That the applicant maintains the facility on a regular schedule. ○ Documentation supporting regular maintenance would be a written maintenance plan and/or activity logs documenting regular intervals of activity. Applicant logs documenting clearance of blockages in response to resident complaints are not sufficient to substantiate a regular maintenance schedule.

If the applicant chooses to remove non-incident-related material along with that deposited as a result of the incident, the project is considered an improved project.

[366] Survey data that is either recent or covers a multi-year period to substantiate the amount of new material reasonably attributable to the incident can be used to support pre-disaster capacity claims.

2. FLOOD CONTROL WORKS

Flood control works are those structures such as levees, flood walls, flood control channels, and water control structures designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water levels.

Restoration of damaged flood control works that are under the authority of another federal agency are ineligible. Secondary levees riverward of a primary levee are ineligible unless the secondary levee protects human life. See Appendix I. Work Eligibility Considerations by Type of Facility. for more information.

C. Buildings and Equipment (Category E)

Facilities under category E include buildings, contents, equipment, and vehicles. Specific to category E, insurance is generally available for buildings, contents, equipment, and vehicles, for most perils such as flood, wind, and fire; therefore, insurance should be the primary source of recovery for PA applicants.

1. BUILDINGS

Buildings include all structural and non-structural components, including mechanical, electrical, and plumbing systems.

For buildings and building systems, distinguishing between damage caused by the incident and pre-existing damage may be difficult. Before making an eligibility determination, FEMA considers each of the following:

- Evidence of regular maintenance as described in Chapter 4: General Facility and Work Eligibility;
- Evidence of pre-disaster condition, such as interior water stains from a leaky roof (in such cases, FEMA evaluates whether the roof was repaired prior to the incident);
- The severity and impacts of the incident; and,
- Whether the applicant took prudent actions to prevent additional damage.

Mold remediation and removal of mud, silt, or other accumulated debris is eligible as permanent work when conducted in conjunction with restoration of the facility.

A public housing authority facility is only eligible for permanent work if Congress does not appropriate funds to the U.S. Department of Housing and Urban Development (HUD) for the facility's emergency capital needs.

i. Earthquake Damage to Welded Steel Moment Frame Buildings

FEMA has specific eligibility criteria for evaluating and repairing earthquake damage to buildings constructed with welded steel moment frames. For details, see Safety Inspections in Chapter 7. Generally, detailed analytical or experimental studies or Level 2 evaluations as described in Recommended Post-Earthquake Evaluation and Repair Criteria for Welded Steel Moment-Frame Buildings (FEMA-P-352),[367] are ineligible

[367] For more information, refer to: *Recommended Post-Earthquake Evaluation and Repair Criteria for Welded Steel Moment-Frame Buildings (FEMA-P-352)*.

unless FEMA provides approval before the applicant initiates the work. Repairs consistent with applicable International Existing Building Code[368] are eligible for reimbursement.

2. CONTENTS AND SUPPLIES

Building contents include furnishings, equipment, consumable or other supplies, files, records, research-related contents, animals, irreplaceable collections and individual objects, library books, publications and specialized items related to the function of the building and the service it provides. Contents can also include equipment on the property rather than within the building. Replacing destroyed supplies with the same number of comparable items is eligible. Applicants may replace supplies with different items used for the same general purpose and FEMA caps the eligible cost at the estimated amount for items comparable to those damaged. Contents damaged as a result of the disaster are eligible even if the building housing the contents is not damaged (e.g. basement flooding which does not result in structural damage, rain driven through open windows or vents). More information about contents eligibility is available in Appendix I. Work Eligibility Considerations for Contents.

i. Files

Eligible activities associated with the recovery of files include, but are not limited to:

- Recovery of damaged hard copies;
- Stabilizing the damaged hard copies;
- Sanitizing damaged hard copies;
- Photocopying or scanning damaged hard copies to re-establish files; and,
- Recovering data from water-damaged computer hard drives and portable or external drives.

Recovery of damaged hard copies includes labor and materials, such as bags, boxes, and containers. Stabilizing damaged hard copies includes freeze-drying. Photocopying or scanning includes labor and materials such as new folders and paper.

Not all activities are eligible. Examples of ineligible activities include:

- Establishing new information databases;
- Manually entering data that was lost in damaged computers;
- Scanning re-established hardcopy files into computers to create digital files; and,
- Deciphering photocopies of damaged hard copies.

ii. Library Books and Publications

Replacement of damaged or destroyed library books and publications is eligible based on the pre-disaster inventory of the quantities of the books and publications. Re-shelving, cataloging, and other work incidental to the replacement of library books and publications is also eligible.

[368] For more information, refer to: International Existing Building Code (IEBC) | iccsafe.org.

However, special library collections, including rare books, manuscripts, and other fragile materials, are only eligible for treatment, not replacement.

iii. Irreplaceable Collections and Individual Objects

Collections and individual objects are artifacts, specimens, artworks, archives, public records, and other items that are often considered irreplaceable because of their artistic, educational, historic, legal, scientific, or social significance. They are nonliving and, therefore, do not include animals or plant material, and are usually one-of-a-kind. Eligible collections and individual objects may be in storage or on display in a public or PNP facility and may include items located outdoors, such as sculptures and public art installations. Documentation of collections and individual objects generally include accession, catalog, and inventories.

Stabilization of damaged collections or individual objects is eligible. Stabilization is a series of treatment measures to maintain the integrity of a collection or object and to minimize deterioration. Stabilization involves taking the minimum steps necessary to return a collection or object to a condition in which it can function in the same capacity as it did prior to the incident. This includes:

- Treating damaged items utilizing environmental controls to achieve proper temperature and humidity; and,
- Chemical or mechanical cleaning to stabilize items to prolong their existence, maintain their integrity, and minimize further deterioration from the damaging effects of the incident.

Additional treatment beyond stabilization is eligible if it is necessary to maintain the integrity of the collection or object and return it to its pre-disaster function.

Terminology

Archives are materials created or received by a person, family, or organization, public or private, and preserved because of the enduring value they contain, or as evidence of the functions and responsibilities of their creator, especially those materials maintained using the principles of provenance, original order, and collective control.

Accession is a formal process used to legally accept and record a specimen or artifact as a collection item.

A **catalog** is a full record of information specific to an item and cross-referenced to other records and files, including identification and documentation of the material.

Stabilization is a series of treatment measures intended to maintain the integrity of a collection or object and to minimize deterioration. It involves the minimum steps necessary to return a collection or object to a condition in which it can function in the same capacity as it did prior to the disaster.

Special library collections include unique, rare, printed books, first editions (often author-signed), manuscripts, archives, artifacts, photos, engravings, graphics, music, and ephemera, as well as limited edition print runs of special collections of maps or other important topics.

In some cases, costs associated with restoring an item to pre-disaster condition as a result of the incident is eligible; however, restoring an item to original condition is ineligible. For example, repairing a tear in a painting that was a direct result of the incident may be eligible, whereas costs to remove signs of pre-disaster aging, such as layers of old varnish, are ineligible.

Costs associated with the development of a treatment plan for a damaged collection or individual object are eligible. Treatment needs to be conducted by a qualified conservation professional with the appropriate specialty and in accordance with the American Institute for Conservation Code of Ethics and Guidelines for Practice.[369] FEMA, in consultation with the recipient and applicant, may recommend no treatment when non-intervention best serves to promote the preservation of damaged items.

Replacement of destroyed irreplaceable collections or objects is ineligible. Collections and individual objects damaged to the extent that stabilization is not practicable or possible are considered destroyed.

Restoring materials, equipment, and exhibition furnishings associated with the storage, display, preservation, or exhibition of collections and individual objects is eligible. These may include, but are not limited to:

- Equipment regulating temperature or humidity;
- Exhibit panels;
- Models; and,
- Video and audio equipment.

iv. Research-Related Contents

Reagents and specimen collections are eligible for replacement based on the following criteria:

The number of reagent units eligible for replacement will be equal to the number lost or the number needed to restore basic research activities, whichever is lower. FEMA reimburses the purchase price based on the cost from either commercial sources or other institutions, using the lesser of the two. However, reagents that are unique and considered outcomes of a research program are not eligible for replacement. In terms of specimen collections, replacing a representative portion, though not necessarily the entire collection, may be eligible. To qualify for replacement, the specimen types must be available for purchase from commercial sources or other institutions and support an ongoing eligible educational or medical program.



Terminology

A **reagent** is a substance used in a chemical reaction to detect, measure, examine, or produce other substances. Some reagents are very common and available for purchase from commercial sources.

[369] For more information, refer to: Code of Ethics and Guidelines for Practice | culturalheritage.org.

A **specimen** is a portion or quantity of material for use in testing, examination, or study, including blood plasma and flesh tissue.

A **specimen collection** is a repository of specimens related to biomedical, marine, or agricultural research.

v. Animals

Animals housed or exhibited in an eligible facility are eligible for replacement with the same number of comparable animals if they are:

- Injured to the extent they are no longer able to function for the intended purpose;
- Killed;
- A destroyed specimen; or
- A damaged specimen that is not recoverable.

An animal is ineligible for replacement if a comparable animal is not available for purchase, or the applicant is unable to obtain a comparable one at a reasonable cost.

The replacement of animals on loan to an eligible facility at the time they are destroyed is eligible if the applicant substantiates legal responsibility.

Additionally, FEMA may provide PA funding for actions taken to save the lives of these animals as a category B emergency protective measure.



Examples: Animals Eligible for Replacement

Eligible animals may include, but are not limited to:

- Police animals;
- Trained and certified rescue dogs;
- Animals in museums, zoos, or publicly owned nature centers;
- Fish in fish hatcheries;
- Taxidermy specimens (animals preserved and mounted in lifelike representations);
- Animals used by rehabilitation facilities as part of diagnosis or treatment; and,
- Laboratory animals used in an active research program.

Determining Costs

The estimated cost to replace an animal is usually determined through market surveys. Costs associated with acquiring donated, loaned, or wild animals as replacement animals are eligible if they do not exceed the estimated cost of purchasing a comparable animal.

If a destroyed animal is replaced through a donation or loan of a comparable animal, the costs associated with purchasing a replacement comparable animal, will then become ineligible.

For laboratory animals, eligible costs associated with replacement include, but are not limited to, the replacement cost of a laboratory animal that is as genetically close as possible to, but does not exceed, the genetic progression of the lost animal AND can be reasonably procured commercially. If an identically genetic animal is not available, the eligible cost is based on a readily procured animal that is as genetically close as possible to the original animal. The applicant, using its scientific research staff, an independent member of the scientific community, or a certified expert, needs to make reasonable decisions on the genetic likeness of the replacement lab animals.

Ineligible costs associated with replacing laboratory animals include:

- The cost of reproducing a new animal with all the characteristics of the lost animal to re-establish research;
- The cost of using a laboratory to perform a breeding program to advance benchmark stock to the genetic changes lost because of the incident;
- The cost associated with surgery required to replace a surgically altered animal; and,
- The cost associated with the replacement of a laboratory animal when an animal of similar genetic characteristics can be obtained at no cost from other researchers or institutions.

If an applicant requests, and the recipient approves, other than in-kind and exact number of replacement animals, FEMA caps the federal share based on the estimated in-kind replacement costs.

3. EQUIPMENT

Equipment includes vehicles or standalone machinery as well as construction or heavy equipment. Repairing damaged or replacing destroyed equipment with the same number of comparable items is eligible.[370] Comparable items are similar in age, condition, and capacity. Applicants may replace equipment with different items used for the same general purpose. This may include instances when a similar item is not reasonably available. However, when a used item (within a reasonable cost, time, or distance) is not available or does not meet applicable national consensus standards, the purchase of a new item with similar capacity is eligible. FEMA caps the eligible cost at the estimated amount for items comparable to those damaged.



Terminology

National consensus standards are voluntary codes, specifications and standards that incorporate the latest hazard-resistant designs.[371] For a full list of FEMA's consensus-based codes, specifications, and standards, refer to Appendix M. Consensus-Based Codes, Specifications, and Standards.

If the cost to replace the item is less than the cost to repair it, FEMA limits PA funding to the replacement cost.

[370] 44 C.F.R. § 206.226(h).
[371] For more information, refer to: Section 1235(b) | Consensus-Based Codes and Standards | FEMA.gov.

4. VEHICLES

Vehicles include motorized on-road licensed vehicles and non-highway or off-road driven wheeled vehicles. When vehicles are not repairable, FEMA uses “blue book” values or similar price guides to estimate the eligible cost.

D. Utilities (Category F)

Utilities include:

- Water storage facilities, treatment plants, and delivery systems;
- Power generation, transmission, distribution, and storage facilities, including, but not limited to, wind turbines, generators, substations, anaerobic digestors, solar power installations, and power lines;
- Natural gas transmission and distribution facilities;
- Sewage collection systems and treatment plants; and,
- Communication systems.

1. POWER RESTORATION

For power restoration projects that meet both emergency work and the permanent work eligibility criteria (i.e., being necessary to reduce or eliminate an immediate threat to life, health or safety and restoring the facility in accordance with applicable codes, standards and EHP requirements) applicants may either claim the work as an emergency protective measure (category B) or as permanent work (category F). However, straight-time force account labor for budgeted employees is not eligible for reimbursement when power restoration is claimed under category B. Additionally, funding for PA hazard mitigation is only available when power restoration is claimed as category F permanent work.

2. RIGHT-OF-WAY CLEARANCE

It is the applicant’s responsibility to maintain its right-of-way (ROW). However, FEMA may fund limited clearance of incident-related debris from the ROW to enable the applicant or emergency workers to obtain access to the facility. Additionally, if trees in the vicinity of the facility were damaged by the incident and an arborist confirms that the trees cause an immediate threat of further damage to the facility (e.g., overhead power lines), FEMA may provide PA funding to remove those trees. Any further clearance of debris in the ROW is ineligible for FEMA funding.

3. POWER: TRANSMISSION AND DISTRIBUTION SYSTEM CONDUCTOR REPLACEMENT

For electrical transmission or distribution systems, determining the disaster-related damage to some components, such as poles, guys, and cross-arms, can usually be accomplished by visual inspection. However, determining the full extent of disaster-related damage to conductors is more challenging, particularly with older systems. A conductor is eligible for replacement when it is stretched beyond the point where it can be effectively repaired and re-sagged to meet appropriate clearances, sag, and tension, and to meet pre-disaster reliability.

Example: Conductor Spans

The number of conductor spans is calculated by multiplying the number of conductors per span by the number of spans.

For example, a three-phase line section with three spans has 12 conductor spans:

- 4 conductors x 3 spans = 12

If a single conductor span has damage in more than one location, it only counts as one damaged conductor span. Similarly, if more than one conductor is damaged, it still only counts as one damaged span.

A conductor is only eligible for replacement (reconductoring) when an applicant cannot effectively repair it because one of the following exists within a line section:

- Twenty-five percent or more of the conductor spans have visible damage, such as broken strands, splices, or sleeves (installed as a result of the incident) or severe pitting, burns, or kinks;
- Thirty percent or more of the line spans are visually stretched (out of sag), or do not meet clearance requirements such as conductor-to-conductor or conductor-to--ground clearance;
- Forty percent or more of the supporting poles need to be replaced or plumbed (straightened). A pole is considered to be in need of straightening if it is leaning such that it is unsafe to climb;
- Forty percent or more of the supporting structures (other than poles) have damage such as broken cross-arms, braces, ties, insulators, guys, pulled anchors, or bent pins. If more than one element of the support structure is damaged, it still only counts as one damaged support structure. If a pole is counted under the previous bullet, FEMA does not count the supporting structure under this criterion;
- Sixty-five percent or more of any combination of the damage described in the bullets above; or
- Evidence provided by a licensed professional engineer that demonstrates the conductor is damaged beyond repair.

If the applicant provides sufficient documentation establishing the pre-disaster condition and a line section of its system meets one of the six criteria above, that line section is eligible to be reconductored.

Terminology

A **line section** is a group of contiguous spans selected for evaluation. A span is the distance between two poles or structures.

The applicant has flexibility in defining a line section. A line section can be:

- A single span
- All the spans between two dead-end structures
- All the spans on a feeder
- All the spans on a tap; or
- Any other group of contiguous spans that are evaluated together.

The use of #2 Aluminum Conductor Steel Reinforced (ACSR) is considered a lower cost alternative to replacing conductor with equal or lesser amperage capacity such as copper weld conductor, hard and soft drawn copper wire, smaller ACSR, and Amerductor. Therefore, if a conductor with equal or lesser amperage capacity to #2 ACSR is eligible for reconductoring, the line section is eligible to be replaced with #2 ACSR. When an applicant replaces conductor with #2 ACSR, adjustments to other components of the electric distribution and transmission systems to accommodate #2 ACSR, including, but not limited to, adjusting span lengths between utility poles, and increasing pole heights and standards to meet appropriate design requirements are eligible. Applicants do not need to cite a code or standard for this additional work even though the appropriate design requirements may come from federal or SLTT codes or standards, including National Electrical Safety Code or Rural Utilities Service (RUS) standards.

The use of advanced conductors or other technologies that improve the resilience of power generation, transmission, and distribution facilities may also be eligible for reconductoring when the community has adopted applicable electrical codes and standards, as referenced in the Codes and Standards section of this chapter. Additionally, even where the community has not adopted applicable codes and standards, advanced conductors or other resilient technologies are eligible as an upgrade through PA mitigation where the community requests the upgrade and it meets the benefit-cost analysis (BCA), or through an improved project. The Department of Energy (DOE) has developed resources to support a more resilient nation and an improved awareness of advanced transmission technologies.[372] If the damage does not meet the criteria for replacement, only the repair of the damaged line section(s) is eligible.

To document the pre-disaster condition of a conductor, applicants must provide the following information:

Table 29. Required Documentation and Information to Support Pre-Disaster Conductor Condition

For Small and Large Projects
▪ A signed, dated, and stamped letter from a licensed professional engineer who has direct experience with the damaged electrical transmission or distribution system certifying the pre-disaster capacity and condition of the conductor along with records providing satisfactory evidence of the pre-disaster capacity and condition of the conductor;   ○ Records may include, but are not limited to, maintenance records, contract documents, work orders, inspection logs, or a description of past inspection and maintenance activities certified by a licensed professional engineer. ▪ If available, copies of construction work plans demonstrating the utility's past practices, as well as current and future projects; ▪ If required by RUS, a copy of any corrective action plans submitted to RUS in compliance with 7 C.F.R. §1730.25, Corrective action (RUS borrowers only); and, ▪ Staking sheets.

[372] For more information, refer to: *Department of Energy Advanced Transmission Technologies, December 2020.*

If an applicant provides the information above, FEMA does not require further documentation to establish pre-disaster condition. Applicants are not precluded from substantiating the pre-disaster condition with other documentation if they are unable to provide the documentation described above.

E. Parks, Recreational, Other (Category G)

Examples of eligible publicly owned facilities in this category include:

- Mass transit facilities such as railways;
- Beaches;
- Parks;
- Playground equipment;
- Swimming pools;
- Bath houses;
- Tennis courts;
- Boat docks;
- Picnic tables;
- Golf courses;
- Ball fields;
- Fish hatcheries;
- Ports and harbors;
- Piers; and,
- Other facilities that do not fit in categories C–F.

Unimproved natural features are ineligible. For more information and examples, see the Facility Eligibility section in Chapter 4.

Nature-based solutions, which include live fascines, vegetated geogrids, bioswales, and other features, are eligible when they are part of the restoration of an eligible facility for the purpose of erosion control, minimizing sediment runoff, reducing flood risk, protecting wetlands, improving water quality, and protecting coastal property. For more examples of eligible cost-effective nature-based solutions, see Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures.

Grass and sod replacement are eligible if it is an integral part of the restoration of an eligible recreational facility. Vegetation replacement is also eligible if necessary to restore the function of the eligible facility (e.g., if vegetation is a component of a sewage filtration system).

Plantings required to mitigate environmental impacts, such as those required to address impacts to wetlands or endangered species habitat, are eligible when required by a federal or SLTT codes, standards, or permit that meets the criteria described under the Permit Requirements section in this chapter.

Long-term monitoring to ensure vegetative growth is ineligible even if it meets the requirements above.

Replacement of damaged trees, shrubs and other vegetation during site restoration is eligible. Replacement of damaged crops, agricultural land, or other vegetation not at the site of an eligible facility is ineligible.

1. BEACHES

Replacement of sand on beaches is only eligible under certain conditions.[373] A beach is considered an eligible facility when all the following conditions exist:

- The beach was not constructed under the specific authority of USACE;[374]
- The beach was constructed by the placement of imported sand—of proper grain size—to a designated elevation, width, and slope;[375] and,
- The applicant has established and adhered to a maintenance program involving periodic renourishment with imported sand to preserve the original design or a specific engineered design, which is clearly justified and outlined in the maintenance program.[376] Placement of sand under the following circumstances does not meet this requirement:
    - Emergency or "one-time" nourishment, even if to a design;
    - Emergency or "as-needed" renourishments when the beach has eroded to a critical condition where all original nourishment is gone;
    - Partial renourishments or "hot-spot" nourishments; or
    - Renourishment using material from a channel maintenance project when dredge spoils do not meet compatibility design criteria and the amount placed is dependent on the amount dredged, not the beach design.

[373] 44 C.F.R. §§ 206.226(j) and 206.201(c).
[374] 44 C.F.R. § 206.226(a).
[375] 44 C.F.R. § 206.226(j)(2)(i).
[376] 44 C.F.R. § 206.226(j)(2)(ii).

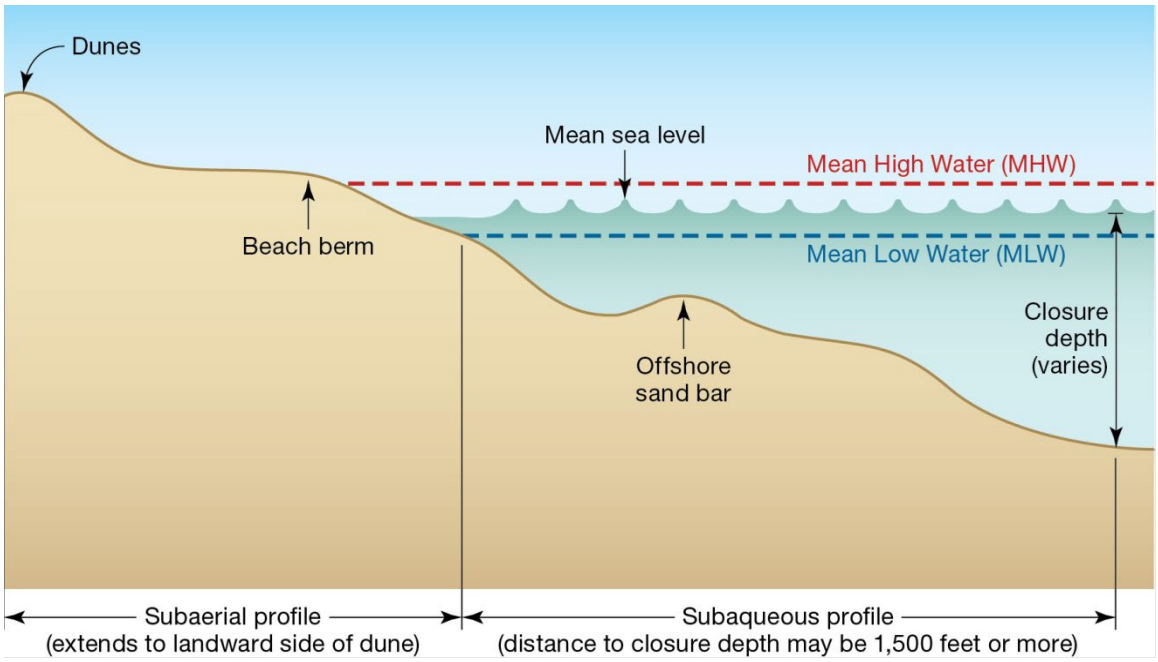


Figure 19. Typical Beach Profile

Sand replenishment for beaches under the specific authority of the USACE is not eligible for PA funding.

The amount of sand eligible for replacement is limited to the amount lost due to the incident. The applicant needs to substantiate the amount of sand claimed with pre-and post-incident profiles that extend at least to the seaward edge of the sub-aqueous nearshore zone (Depth of Closure) (see Figure 19. Typical Beach Profile). If pre-storm profiles are not available, documentation may include design documents and renourishment history. Applicants need to adjust quantities to account for any erosion that occurred between the pre- and post-incident profiles.

Replacing sand that eroded prior to the incident is ineligible. However, FEMA encourages applicants to renourish the project to maintain and achieve the design profile.

To document eligibility of a beach as a designed and maintained facility, applicants must provide the following information:

- Design studies, plans, construction documents, and as-builts for the original nourishment;
- Documentation and details of the maintenance plan, including how the need for renourishment is determined and funded; and,
- Renourishment history, design studies, and as-builts for every renourishment, including construction documents if applicable.

FEMA may request only a portion of this information if the beach was previously determined eligible.

Beach access crossover structures are eligible facilities for repair or replacement. Sand placement adequate for covering crossover footings is eligible, unrelated to eligible beach sand replacement.

F. Landslides and Slope Stabilization

If an eligible facility is located on a slope and is damaged as a result of a landslide or slope instability triggered by the incident, FEMA determines the stability of the slope that supports the facility before it approves PA funding to restore the facility. Restoration of the integral ground that supports the facility may also be eligible. The impact of slope stability on eligibility is as follows:

- If the site is stable, permanent restoration of the facility and its integral ground is eligible.
- If the site is unstable and there is no evidence of pre-disaster instability after the facility was constructed, permanent restoration of the facility and its integral ground is eligible, including measures to stabilize the integral ground.
- If the site is unstable and there is evidence of pre-disaster instability after the facility was constructed, restoration of the facility's integral ground is ineligible. Restoration of the facility is eligible only upon the applicant stabilizing the site and restoring the integral ground.

If permanent restoration of the facility is eligible based on above determination, additional funding to protect the facility from future damage is eligible as PA hazard mitigation as outlined in this chapter.

Site inspections and limited geotechnical assessments are eligible if they aim to determine site stability and to obtain a technical opinion of the cause of the slope failure. This is applicable when an eligible facility located on a slope is impacted due to a landslide or slope instability triggered by a declared incident.

Permanent repair to stabilize natural ground that is not integral to the function of an eligible facility or does not support an eligible facility is not eligible for funding. However, there are limited circumstances where a qualified individual may determine that the upslope makes a facility vulnerable to repetitive damage. In such cases, these repairs may be considered eligible. FEMA may approve permanent relocation of the facility if the facility is subject to repetitive heavy damage and relocation is cost effective. Eligible costs for relocation are described under the Relocation section in this chapter.

Applicants may request an alternate project if restoration of the facility is not feasible because of soil instability.

VI. Repair vs. Replacement

When evaluating whether a damaged facility is eligible for replacement, FEMA compares the estimated repair cost with the estimated replacement cost and evaluates the feasibility of repairing the facility.[377]

A facility is considered repairable when:

- The cost to repair the disaster-related damage does not exceed 50 percent of the cost to replace the facility based on its pre-disaster size, capacity, and function; and,
- It is feasible to repair the facility so that it can perform the pre-disaster function as well as it did prior to the incident.[378]

[377] 44 C.F.R. § 206.226(f).
[378] 44 C.F.R. § 206.226(f)(1).

The comparison of the repair cost to the replacement cost results in a fraction that expresses repair as a percentage of replacement. The percentage is calculated with the estimated repair cost as the numerator and the estimated replacement cost as the denominator. FEMA refers to this as the "50 percent rule."

The purpose of the 50 percent rule is to make an early determination on whether it is more prudent to repair or replace a facility. It is not intended to be a full calculation of all eligible project costs. FEMA does not perform the calculation when it is not feasible to restore the facility so that it can perform its pre-disaster function as well as it did before. If the restoration of the facility is not feasible, replacement is eligible.

The feasibility evaluation criteria is crucial in evaluating whether it is practical and technically feasible to repair a facility so it can perform to the same pre-disaster function from an engineering standpoint. Qualified professionals, such as professionally licensed individuals, qualified cost estimators, construction managers, and staff with other technical expertise, as necessary review feasibility studies and ancillary information provided to FEMA when a facility is not considered technically repairable under 44 C.F.R § 206.226(f)(2).

A floodplain manager's substantial damage determination is part of the NFIP eligibility process and is separate and distinct from the PA eligibility process for determining whether a facility is eligible for replacement or relocation. FEMA determines whether replacement costs are eligible for PA funding based on the 50 percent rule. The substantial damage[379] determination is used to determine whether certain floodplain management requirements are triggered in communities participating in the NFIP.

A. Calculation

The repair cost estimate (numerator) is the estimated cost of repairing disaster-related damage only and includes costs related to compliance with codes and standards that apply to the repair of the damaged elements only.[380] The numerator does not include costs associated with:

- Upgrades of non-damaged elements which are not directly associated with the method of repair of the damaged element, even if required by codes or standards (e.g., elevation of an entire facility triggered by repair);
- Selective demolition beyond that which is essential to repair the damaged elements;
- Site work;
- Soft costs;
- Contents;
- Hazard mitigation measures; or
- Emergency work.



Terminology

Site work is any exterior work at the site. Examples include:

[379] For more information, refer to: Substantial Damage Quick Guide | fema.gov.
[380] This includes consensus-based codes, specifications, and standards.

- Excavation;
- Backfill;
- Erosion control;
- Utility installation; and,
- Paving.

The replacement cost estimate (denominator) is the estimated cost of replacing the facility based on its pre-disaster design (size and capacity) and function in accordance with applicable codes or standards. The denominator does not include costs associated with:

- Demolition;
- Site work;
- Soft costs;
- Contents;
- Hazard mitigation measures; or
- Emergency work.

In order to support timely replacement determinations, rapid recovery, and streamline the process for 50 percent rule calculations, FEMA provides the option to not use higher consensus-based codes, specifications and standards in 50 percent rule calculations. Costs associated with compliance to meet existing federal, state, local, tribal, and territorial codes and standards must still be included in the calculation When applicable, consensus-based codes, specifications, and standards will be applied in the same manner as locally adopted codes, specifications, and standards for the purpose of calculating the 50 percent rule. Although certain costs are not included in the 50 percent rule calculation to determine whether the facility is eligible for replacement, the costs may be eligible for PA funding subjeft to all other eligibility requirements.

B. Request for Replacement

Applicants should submit their requests for replacement within one year of the declaration. The request should include both repair and replacement cost estimates with supporting documentation, prepared in accordance with the requirements described under the Applicant Estimates section in Chapter 9.

FEMA's professionally licensed engineers and architects, qualified cost estimators, construction managers, and staff with other technical expertise, as necessary, develop or review and validate the estimates used in the 50 percent rule calculations. Re-running the calculation is appropriate if there is an error in the initial calculation, or if costs associated with applicable codes and standards need to be added.

For any replacement requests over $5 million, FEMA submits the estimates to an independent third-party for an additional review of the estimates. FEMA considers the results of the third-party review prior to approving replacement.

C. Eligible Funding

If replacement is eligible either because it is not feasible to restore the facility so that it can perform its pre-disaster function as well as it did before or based on the 50 percent rule, the actual replacement cost is eligible. Alternatively, applicants may elect to repair the facility in conformance with applicable codes and standards. In this case, FEMA limits the eligible cost to the estimated cost of repair or replacement, whichever is less.[381]

Because the repair vs. replacement determination is made based on a subset of the total costs of what it would take to repair or replace a facility (see excluded costs above), it is possible that replacement would not be eligible under the repair vs. replacement determination even though the total cost to repair the facility would be greater than the total cost to replace it (once all costs were considered). In this case, FEMA would limit funding to the replacement cost since it is less than the cost to repair.

Eligible building projects that involve new construction, substantial improvement, or to address substantial damage in flood hazard areas must meet the minimum floodproofing or elevation standards set out in the Federal Flood Risk Management Standard (FFRMS).

The costs to floodproof or elevate a damaged facility are not included in the repair cost of the 50 percent rule calculation but are included in the replacement cost of the calculation. Therefore, the repair cost for the 50 percent rule calculation is estimated without regard to whether the facility receives a substantial damage determination or whether the facility contains a critical action. A floodplain manager's substantial damage determination is part of the NFIP eligibility process and is separate and distinct from the PA eligibility process for determining whether a facility is eligible for replacement or relocation. FEMA determines whether replacement costs are eligible for PA Program according to the criteria specified in the Repair vs. Replacement section within this chapter. FEMA determines whether relocation costs are eligible for PA funding based on the criteria under the Relocation and Hazard Mitigation sections in this chapter. Facilities eligible for replacement are subject to Federal Flood Risk Management Standard requirements, and compliance costs are eligible for PA funding.

Relocation is only eligible for PA funding if it meets the requirements under the Relocation section in this chapter. If compliance with a code or standard is not feasible without relocating a facility and relocation is not eligible for PA funding, FEMA caps the funding without including the costs related to relocation and considers it an improved project.

Costs associated with demolition of a facility that is eligible for replacement are eligible as part of the permanent work project to replace the facility. Eligible costs include removal, recycling, and disposition of the associated demolition debris.

PA mitigation can be applied to replacement projects. Specifically, cost-effective PA hazard mitigation funding will be eligible for inclusion on replacement projects (including improved projects involving relocation). The total eligible project cost is determined after PA hazard mitigation costs are added and all

[381] 44 C.F.R. § 206.226(f)(2).

reductions are accounted for. In cases where the eligible repair costs for a replacement project are fully covered by insurance, the PA hazard mitigation may still be eligible if the "total eligible project cost," including mitigation, meets or exceeds the minimum project threshold.

As discussed in Chapter 10: Environmental and Historic Preservation, if an applicable code or standard requires that a historic facility be restored in a certain manner and does not allow other options, the cost to restore the facility in accordance with the code or standard is eligible and may exceed the estimated replacement cost.[382] A historic facility is defined as one listed in, or eligible for listing in, the National Register of Historic Places.[383]

D. Replacement of Components of a Facility or System

FEMA does not apply the 50 percent rule to a facility's structural or mechanical components (e.g., windows; roofs; heating, ventilation, and air conditioning (HVAC); electrical; plumbing). For example, FEMA does not apply the 50 percent rule to a damaged HVAC system to determine whether the system should be repaired or replaced because it is a component of a building. If the HVAC system is repairable, as determined by an inspector or engineer with appropriate technical expertise, FEMA limits its funding to the repair of the system.

For facilities that are systems composed of multiple, easily segregated components, FEMA applies the 50 percent rule to individual components of the system, rather than the entire system.

Examples: FEMA's Application of the 50% Rule

The following are examples of facilities that are systems to which FEMA applies the 50% rule calculation to **individual components**:

- Drainage channel or irrigation system: A section from damaged node to damaged node, which is where there are intersections or connecting points.
- Water or sewer line system: A section of piping from damaged manhole to damaged manhole, a lift station, or a manhole structure.
- Water or wastewater treatment plant: A control building, clarifier, or sedimentation pond.
- Electrical distribution systems are evaluated for replacement based on the criteria under Power: Transmission and Distribution System Conductor Replacement in this chapter.

The following are examples of facilities to which FEMA applies the 50% rule to the **entire facility**:

- Bridges;
- Culverts;

[382] 44 C.F.R. § 206.226(f)(3).
[383] For more information, refer to: National Register of Historic Places | nps.gov.

- Buildings;
- Pumping stations;
- Piers;
- Pools, including integral pumping;
- Equipment; and,
- Lighting structures.

VII. Relocation

There are opportunities for relocating a facility utilizing PA funding.

A. FEMA-Directed Relocation

The Regional Administrator may approve funding for and require restoration of a destroyed facility at a new location when all of the following conditions apply:

- The facility is subject to repetitive heavy damage because of its location. For example, facilities located in a SFHA or wildland-urban interface and subject to repetitive heavy flood or fire damage;
- Project approval is not barred by other regulations; and,
- The overall project, including all costs, is cost-effective.
    - If the cost to relocate the facility is less than the eligible cost to replace the facility at its original location (the value of the land at the original site is not included as part of this evaluation) then the project is cost effective. In instances where the cost of relocation exceeds the cost to replace the facility at its original location FEMA uses its BCA process and software[384] to determine cost effectiveness.[385]

Terminology

The **wildland-urban interface (WUI)** is the area between wildland and urban land.

If the Regional Administrator requires an applicant to relocate, and the applicant does not feel that relocating would be in the best interest to the community it serves, the applicant can choose to use the flexibility of an alternate project.[386] An alternate project allows eligible funding to be used to repair or expand other public facilities, purchase capital equipment, or perform hazard mitigation measures unrelated to the original facility. For more information, see the Flexible Restoration (Capped Projects) section in this chapter. If relocation of a facility is not feasible or cost effective, the Regional Administrator shall disapprove federal

[384] For more information, refer to: Benefit-Cost Analysis.
[385] 44 C.F.R. § 206.226(g)(1).
[386] 44 C.F.R. § 206.226(g)(4).

funding for the original location when it is determined that restoration in the original location is not allowed. In such cases, an applicant may apply for an alternate project.[387]

B. Applicant-Driven: Repair vs. Replacement

When an applicant's facility is destroyed (i.e., eligible for replacement) and the Regional Administrator does not require the facility to be relocated, the applicant can request the facility be built at a different location through an improved project.

When an applicant's facility is repairable, the applicant can choose to relocate the facility through an improved project. The eligible funding will be capped based on the repair costs.

C. Code-Driven: Part 9 and Other Code and Standard Relocations

An applicable federal or SLTT code or standard, such as a floodplain management regulation, may also require that a damaged facility be relocated away from a hazardous area (e.g., floodway). If compliance with a code or standard is not feasible without relocating a facility and relocation is not eligible for PA funding, FEMA caps the funding for the cost to repair, without including the costs related to relocation, and considers it an improved project.

Cost-effective PA hazard mitigation funding is allowable on replacement projects (including improved projects involving relocations). Where relocation is not required by an applicable code or standard, an applicant can request FEMA fund a relocation as a mitigation measure if it meets the requirements identified in the Hazard Mitigation section of this chapter. In this case, FEMA evaluates the cost effectiveness using its BCA tool.

D. Eligible Work and Funding

Eligible work associated with relocation includes land acquisition and construction of necessary support facilities, such as roads, parking lots, and utilities. Demolition and removal of the original facility including costs for deconstruction and reuse of materials are also eligible if deemed necessary.[388] FEMA limits PA funding to the amount necessary to make the relocated facility and its associated components operational.

FEMA considers the proximity of the new site to utilities (water, sewer, and electric) and approves the least costly solution. Construction of an off-site support facility is only eligible if it is a utility that would serve the relocated facility exclusively.

For land acquisition, if the facility was located on 10 acres of land at the time of the incident, and FEMA determines that 10 acres is not necessary for the operation of the facility, FEMA limits PA funding to the necessary amount of land.

[387] 44 C.F.R. § 206.226(g)(5).
[388] 44 C.F.R. § 206.226(g)(2).

In situations where the applicant owns the facility, but not the land or the support facilities at the original location, the cost to purchase the land or build support facilities is ineligible.

When FEMA requires relocation, FEMA does not provide future PA funding for repair or replacement of the original facility or for other facilities at the original site unless the facility facilitates an open space use.[389] For example, if the applicant converts the original site to a park, FEMA may provide PA funding in the future for park components, such as benches, tables, restrooms, or gravel roads.

E. Sale or Lease of Property at Original Site

Applicants may sell or lease the original facility or the land on which a relocated facility was originally located. Applicants must inform the purchaser of the property that FEMA will not provide future PA funding for repair or replacement of the original facility or for other facilities at the original site unless the facility facilitates an open space use.

The property which the facility is relocated to, and the relocated facility itself, are subject to the real property provisions of 2 C.F.R. Part 200 including disposition and reporting requirements under 2 C.F.R. §§ 200.311 and 329, respectively.

For PA funds to be used for the original site, FEMA must complete an EHP review before an applicant can take a specific action, such as demolition.

VIII. Environmental and Historic Preservation Requirements

Applicants need to make every effort to afford FEMA the opportunity to perform environmental and historic preservation (EHP) reviews prior to starting any work that has the potential to impact the environment or historic properties. This includes, but is not limited to, demolition work, site preparation, and ground disturbing activities. Prompt compliance with EHP requirements can facilitate the processing of a PA project. Permanent work projects that restore a damaged facility to pre-disaster design are generally excluded from some EHP review. Projects that involve changes in location, footprint, alignment, or size of a facility may not fall under these exclusions. For more information on the EHP program, see Chapter 10: Environmental and Historic Preservation.

A. Floodplain Management and Wetland Protection

FEMA has a responsibility to consider and safeguard the benefits of floodplains and wetlands[390] when providing federal assistance. When providing PA funding for a project in or impacting a floodplain or wetland, several requirements apply.

Projects may not be located in a floodplain or wetland if there are other options that avoid construction in or disturbance to the floodplain or wetland. Applicants are responsible for securing and complying with any

[389] 44 C.F.R. § 206.226(g)(3).
[390] EO 11990, "Protection of Wetlands"; EO 11988, "Floodplain Management."

required permits[391] for work in areas designated as wetlands by the U.S. Army Corps of Engineers. Failure to do so may result in denial or deobligation of funding. New construction is not allowed in coastal high hazard areas unless the project helps manage natural areas like parks or low-impact recreational paths. New construction and substantial improvements are also not allowed in floodways.[392] These types of activities can result in continuing vulnerability to flood damage.

Terminology

Floodplain: The lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a 1% or greater chance of flooding in any given year.

Coastal high hazard area (CHHA): An area of flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Substantial improvement: Any repair, reconstruction, or other improvement of a structure or facility, which has been damaged in excess of, or the cost of which equals or exceeds, 50% of the market value of the structure or replacement cost of the facility.

Flood risk reduction requirements apply to PA-funded projects that:

- Are located in floodplains or wetlands;
- May affect floodplains or wetlands; and/or,
- Have the potential to be affected by floodplains or wetlands.

FEMA may also require other measures based on its 8-step decision-making process (see the 8-Step Decision-making Process section in this chapter).

B. The Federal Flood Risk Management Standard

The Federal Flood Risk Management Standard (FFRMS) applies to FEMA-funded projects involving new construction, or substantial improvements, or to address substantial damage. To ensure federally funded work on such structures and facilities lasts as long as intended, the FFRMS requires a higher elevation and corresponding floodplain to address the potential of both current and future flooding. The height to which all structures and facilities must either be elevated or floodproofed is identified as the FFRMS flood elevation.[393] The corresponding floodplain is the width to which the floodplain expands to meet the FFRMS flood elevation.

[391] Section 404 of the Clean Water Act; 33 U.S.C. § 1344.
[392] 44 C.F.R. § 9.11(d)(1).

Terminology

Federal Flood Risk Management Standard (FFRMS) Floodplain: The floodplain subject to FEMA's full implementation requirements of the FFRMS. ("how wide")

Federal Flood Risk Management Standard (FFRMS) flood elevation: The height facilities and structures must be either elevated or floodproofed to under FFRMS. ("how high")

Based on historical information, FEMA anticipates future flooding impacts to these structures and facilities and as such, the FFRMS requires a higher vertical flood elevation and corresponding horizontal floodplain than the area which has a 1 percent annual chance of flooding in any given year.

To establish the FFRMS flood elevation ("how high") and floodplain ("how wide"), FEMA uses three approaches: the Climate-Informed Science Approach, the Freeboard Value Approach, and the 0.2 percent-Annual-Chance Flood Approach (0.2PFA) (the 500-year floodplain). When applied to PA projects, these three approaches help to ensure that structures and facilities are more resilient to flooding. In deciding how to use these approaches, FEMA prioritizes criticality of the action, data availability, and the effects of results for the communities impacted.

As such, the Climate-Informed Science Approach is used where data and methods are available and actionable.[394] Where the Climate-Informed Science Approach is not available, FEMA uses a comparison of the remaining approaches.

Example: FFRMS Approaches

The Federal Flood Risk Management Standard authorizes three approaches to establish the FFRMS flood elevation and floodplain:

- The **Climate Informed Science Approach (CISA)** uses the best available, actionable data incorporating current and future changes in flooding.
- The **Freeboard Value Approach (FVA)** adds 2 feet to the base flood elevation (BFE) for non-critical actions (+2' FVA) and adds 3 feet to the BFE for critical actions (+3' FVA).
- The **0.2 Percent Annual Change Flood Approach (0.2PFA)** establishes the 0.2% annual-chance floodplain as the FFRMS floodplain.

For critical actions (such as the construction of fire and police stations, hospitals and facilities that store hazardous materials), FEMA will use the higher of the Freeboard Value Approach (3 feet above the 1 percent annual chance flood elevation) or the 0.2 percent-Annual-Chance Flood Approach (500-Year Floodplain).

[394] CISA instructions and resources are included in Appendix H of the *Guidelines for Implementing EO 11988 and EO 13690 | fema.gov*. The federal government may periodically publish new CISA resources to support determining the CISA FFRMS floodplain.

For non-critical actions, FEMA determines the FFRMS floodplain by using the lower of the Freeboard Value Approach (2 feet above the 1 percent annual chance flood elevation) or the 0.2 percent-Annual-Chance Flood Approach.



Terminology

1 percent Annual Chance Floodplain: The land area having a 1% chance of flooding in a given year (This area may change over time.) This term is often used interchangeably with the terms "base flood" or "100-year flood."

Base Flood: A flood which has a 1% chance of being equaled or exceeded in any given year. This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management. This is often used interchangeably with the terms "1% annual-chance flood," or "100-year flood."

Base Flood Elevation (BFE): The computed elevation to which floodwater is anticipated to rise during the base flood. The BFE is also known as the 1% annual chance flood elevation or 100-year flood elevation.

1. CRITICAL ACTIONS

For critical actions,[395] structures and facilities in the FFRMS floodplain that are substantially damaged, substantially improved, or new construction must be elevated or floodproofed to the FFRMS flood elevation.

If the structure is nonresidential, applicants may opt to floodproof to the required level instead of elevating. For non-structure facilities, such as roads or bridges, elevation may not be feasible or appropriate. Applicants must apply appropriate resilience measures to protect the facility to the FFRMS flood elevation.

FEMA uses CISA to determine the FFRMS floodplain and FFRMS flood elevation for all locations when possible. For critical actions using CISA, the FFRMS floodplain must be at least as restrictive as the 0.2 percent annual chance flood elevation and corresponding horizontal floodplain. For locations where CISA is not available and actionable, the FFRMS floodplain is the area that would be inundated by the *higher* of:

- The 0.2 percent annual chance flood (500-year flood); or
- The BFE plus 3 feet. (In coastal areas, if the 0.2 percent annual chance flood elevation does not account for the effects of wave action, the BFE+3' must be used.)

i. Critical Actions Not Subject to the FFRMS

The minimum floodplain level for critical actions that do not involve substantial damage, substantial improvement, or new construction is the 0.2 percent annual chance floodplain (500-year floodplain).

[395] 44 C.F.R. § 9.4.

ii. Potential Critical Actions

If an action is not specified as a critical action in 44 C.F.R. § 9.4, FEMA determines whether a proposed action is deemed a critical action[396] by considering the following:

- The potential for additional impacts if the proposed project is flooded in a future incident (e.g., the structure or other facility contains volatile or toxic materials);
- The ability for occupants of buildings such as hospitals, schools, and nursing homes to evacuate in time to avoid loss of life and injury given the flood warning lead-time available in a future incident; and,
- The potential for emergency services and utilities to become inoperative, or essential and irreplaceable records to be lost if a facility is flooded in a future incident.

2. NON-CRITICAL ACTIONS

For non-critical actions, structures[397] and other facilities that are substantially damaged, substantially improved,[398] or new construction must be elevated or floodproofed to the FFRMS flood elevation.

FEMA uses the Climate-Informed Science Approach to determine the FFRMS floodplain and FFRMS flood elevation when possible. For locations where CISA is not available and actionable, the FFRMS floodplain is the area that would be inundated by the *lower* of:

- The 0.2 percent annual chance flood (500-year flood); or
- The base flood elevation (BFE) plus 2 feet.[399]

If the structure is nonresidential, applicants can choose to floodproof to the required level instead of elevating.[400] For non-structure facilities,[401] elevation may not be feasible or appropriate. Applicants must apply appropriate resilience measures to protect the facility to the FFRMS flood elevation.

i. Non-Critical Actions Not Subject to the FFRMS

For non-critical actions that do not involve repairs to substantial damage, substantial improvement, or new construction, the minimum floodplain for consideration is the 1 percent annual chance floodplain.

2. COASTAL HIGH HAZARD AREAS

New construction is prohibited in coastal high hazard areas except for projects that help with the management of natural areas like parks or other less-developed recreational areas. If the structure was substantially damaged, is substantially improved, or undergoes new construction in a coastal high hazard area, the applicant must elevate or floodproof the structure in accordance with the requirements

[396] For more information, refer to: *Guidelines for Implementing EO 11988 and EO 13690* | fema.gov.
[397] 44 C.F.R. § 9.4.
[398] Ibid.
[399] In coastal areas, if the 0.2 percent annual chance flood elevation does not account for the effects of wave action, the BFE+2' must be used.
[400] 44 C.F.R. § 9.11(d)(3)(iii).
[401] For purposes of complying with the FFRMS, "non-structure facility" is synonymous with the word "facility" as defined at 44 C.F.R. § 9.4.

summarized above. In coastal high hazard areas, structures must be elevated on open works (walls, columns, piers, piles, etc.) and anchored properly.[402]

3. REQUIREMENT FOR COMMUNITIES PARTICIPATING IN THE NATIONAL FLOOD INSURANCE PROGRAM.

FEMA manages the National Flood Insurance Program (NFIP),[403] which provides flood insurance that helps property owners, renters, and businesses recover faster. The NFIP works with communities required to adopt and enforce floodplain management regulations that help mitigate flooding effects.

A community that participates in the NFIP must adopt and enforce a floodplain management ordinance that meets or exceeds the minimum NFIP requirements.[404] This ordinance must contain requirements for new construction or substantial improvement of buildings located in an area with a 1 percent chance of flooding in any given year (also known as a special flood hazard area or "SFHA"). In addition to other requirements, the ordinance must require that new or substantially improved buildings be elevated so that the lowest floor is at or above the BFE or floodproofed to a level equal to or above the BFE.

Some communities have more restrictive ordinances that require elevation or floodproofing to greater levels. The requirements that a community adopts in order to participate in the NFIP may be different than FEMA's requirements. PA will fund the stricter requirements.

Building upgrades required for compliance with the floodplain ordinance are eligible as long as:

- The ordinance meets the eligibility criteria for codes and standards; and,
- The substantial improvements are disaster-related repairs.

Based on the floodplain ordinance, if the cost to repair a facility is greater than the cost to replace the facility, the eligible cost is capped at the replacement cost. There is an exception for facilities eligible for or on the National Register of Historic Places.[405]

IX. Facility Located in or Impacting a Floodplain

FEMA actions must comply with the regulations set forth in 44. C.F.R. Part 9 if they have the potential to affect floodplains or wetlands, or if they are subject to potential harm by location in floodplains. This includes funding of permanent restorations. When FEMA provides PA funding for restoration of a facility located in, or impacting a floodplain, FEMA must:

- Determine if an action is critical or non-critical; and,
- Require mitigating actions aligning with any minimization standards that apply.

[402] 44 C.F.R. § 9.11(d)(2) and (7).
[403] For more information, refer to: Flood Insurance | FEMA.gov.
[404] 44 C.F.R. § 60.3.
[405] 44 CFR Part 206.226(f)(3).

FEMA may create more stringent requirements than the current regulatory standards in order to minimize harm to or within the floodplain. PA-funded projects may also be required to demonstrate compliance with SLTT floodplain regulations in cases where a uniformly-applied SLTT code or standard is more stringent than the federal requirements.

A. 8-Step Decision-making Process

FEMA determines whether a PA project will have a negative impact on the floodplain.[406] To make this determination, FEMA uses the 8-step decision-making process defined in 44 C.F.R. § 9.6. This process is not required for projects where the repair cost is less than $18,000.[407]

Using the 8-step process, FEMA evaluates the impacts the project may have on the floodplain. FEMA also looks at viable alternatives for environmental, social, economic, technical, and legal factors.[408] It is possible for alternatives to be ineligible for PA funding. FEMA considers whether each alternative is eligible for PA funding and, if not, whether the applicant has economic or legal limitations[409]. Projects in the floodplain are only eligible if FEMA is unable to identify a viable alternative to restoring the facility in its current location.



Example: 8-Step Process Identified Alternatives

Some alternatives may not be eligible for PA funding. The 8-step review process may identify relocation of a facility as a viable alternative to repairing it. However, if the facility is ineligible for relocation as described under the Relocation section in this chapter, costs associated with relocating the facility are ineligible for PA funding.

For projects located within or that may affect a floodplain or wetland, FEMA must consider the following alternatives to meet FFRMS requirements:

- No action;
- Alternative locations; and,
- Alternative actions, including ones that use natural features or nature-based solutions.

Where possible, natural systems, ecosystem processes, and nature-based solutions must be used to meet the needs of the project. Using natural features and nature-based solutions enhances the natural benefits of floodplains and wetlands while also reducing flood risk. If natural features and nature-based solutions are not viable as an alternative on their own to meet the needs of the project, they may be incorporated into the project as minimization measures. Natural features and nature-based solutions may not be a reasonable alternative for replacing a structure on a school campus, but they could be incorporated into the project site through permeable pavement, native vegetation, and stormwater quality improvements.

[406] 1 percent annual chance floodplain, 0.2 percent annual chance floodplain, or FFRMS floodplain.
[407] 44 C.F.R. § 9.5(c)(9).
[408] 44 C.F.R. § 9.9.
[409] Ibid.

B. Hydrologic and Hydraulic Studies

Hydrologic and hydraulic (H&H) studies can help identify whether facilities located in a floodplain are likely to have an adverse impact upstream or downstream. Generally, an H&H study is necessary when:

- The facility is in a special flood hazard area;
- There is a potential adverse impact to the floodplain;
- There is a potential adverse impact to a federally listed threatened or endangered species, critical habitat, or essential fish habitat; or
- It is required to demonstrate compliance with the Clean Water Act (CWA).

PA, EHP, and PA hazard mitigation staff coordinate to determine whether an H&H study is needed. If so, FEMA requests the applicant retain a licensed civil, environmental, or hydrologic engineer to prepare the H&H study. FEMA staff can provide guidance on the general contents for such studies. H&H studies are eligible as part of the overall project.

These studies identify upstream and downstream impacts (such as stage, velocity, duration) of alterations to the floodplain by the proposed work. H&H studies are often requested when there will be new construction or alterations to bridges or culverts. These alterations include changes to the length, diameter, number of culverts, or modifications to exits and entrances (such as head walls, wing walls, rounding, grouted riprap).

H&H studies are not required:

- If water at a stormwater drainage or conveyance structure does not flow regularly or flows only seasonally; or
- If the project will return the facility back to its exact pre-disaster condition (in length, diameter, material, number of culverts, exit and entrance conditions), and stream morphology has not significantly changed.

C. Facility Located in a Special Flood Hazard Area

Special flood hazard areas (SFHAs)[410] are areas that are subject to inundation during a 1 percent annual chance flood (also known as the 100-year floodplain).

1. NATIONAL FLOOD INSURANCE PROGRAM

For a National Flood Insurance Program (NFIP) insurable facility located in an SFHA, FEMA must reduce PA funding when the facility is:

- Located in an area that FEMA has identified as an SFHA for more than 1 year;
- Damaged by flooding; and,
- Uninsured for flood loss.

If an applicant believes that its property is incorrectly identified on a flood insurance rate map (FIRM) as being located within the SFHA, it may request a letter of map amendment or letter of map revision from

[410] 44 C.F.R. § 206.251(e). Special flood hazard areas have special flood, mudslide, and/or flood-related erosion hazards, and shown on a flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) issued by FEMA as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. "Special flood hazard area" is synonymous with "special hazard area," as defined in 44 C.F.R. Part 59.

FEMA within 6 months of the disaster declaration. If the applicant's request is approved and FEMA determines that the property is not located in an SFHA, FEMA may reinstate PA funding. Costs incurred in pursuit of a letter of map amendment or letter of map revision are ineligible for PA funding.

Pursuant to Stafford Act section 406(d)(2), if an applicant does not have flood insurance for the facility or carries inadequate flood insurance for the insurable facility, FEMA reduces eligible project costs by the lesser of:

- The maximum amount of insurance proceeds that could have been obtained from an NFIP standard flood insurance policy for the building and its contents;[411] or
- The value of the building and its contents at the time of the incident.

FEMA does not apply this reduction to PNP facilities in communities that do not participate in the NFIP.[412] However, for FEMA to provide PA funding for the PNP facility, the community where the facility is located must agree to participate in the NFIP within 6 months of the declaration. Additionally, the PNP must purchase the required flood insurance; or the PNP must obtain and maintain flood insurance from another source.[413]

X. Requirement to Obtain and Maintain Insurance

Applicants that receive PA funding for permanent work to replace, repair, reconstruct, or construct a facility must obtain and maintain insurance to protect the facility against future loss.[414] Applicants must comply with this requirement as a condition of FEMA assistance. This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles), including those funded as an alternate or improved project.[415] FP 206-086-1 Public Assistance Policy on Insurance[416] describes these requirements in detail.

Applicants must obtain and maintain insurance on damaged facilities with the types and extent of insurance reasonably available, adequate, and necessary to protect against future loss to the property. Recipients must provide assurance that the required insurance coverage will be maintained for the anticipated life of the restorative work or the insured facility, whichever is shorter.[417] The type of insurance refers to the hazard(s) that caused the damage and extent refers to the amount of insurance required, which is calculated based on the eligible costs prior to any reductions (including the non-federal share reduction).

The requirements of Stafford Act Section 311 are waived when eligible costs for an insurable facility do not exceed $5,000.[418]

Applicants may request that FEMA modify the insurance requirement when:

411 44 C.F.R. § 206.252(a).
412 44 C.F.R. § 206.252(b).
413 Ibid.
414 Stafford Act § 311; 42 U.S.C. § 5154; 44 C.F.R. § 206 Subpart I; 2 C.F.R. 200.310.
415 44 C.F.R. § 206.203(d).
416 For more information, refer to: Public Assistance Policy on Insurance (FP 206-086-1) | fema.gov.
417 Stafford Act § 311; 42 U.S.C. § 5154; 44 C.F.R. § 206.253(e).
418 44 C.F.R. § 206.253(d).

- The required insurance is not reasonably available; and,
- The required insurance is not necessary to protect against future loss to the property.

Additionally, FEMA does not require greater types and amounts of insurance than those certified as reasonably available, adequate, or necessary by the appropriate state or territorial insurance commissioner.[419] The state or territorial insurance commissioner cannot waive federal insurance requirements but may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility.[420]

Applicants may comply with the insurance requirement for both flood and non-flood hazards with coverage available through commercial property insurance, which may include blanket insurance policies, standard flood insurance policies, insurance pools, or a combination of these sources.[421] In some cases, with FEMA approval, the applicant may comply with the insurance requirement using a self-insurance plan.[422]

A. Failure to Obtain and Maintain Insurance

If an applicant does not comply with the requirement to obtain and maintain insurance, FEMA will deny or deobligate PA funds related to the noncompliance from the current disaster. Additionally, the facilities for which the applicant failed to comply are ineligible for future PA funding.

If an applicant cannot insure a facility prior to grant approval (for example, if a building is being reconstructed), the applicant may provide a letter of commitment (LOC) stating that they agree to the insurance requirement and will obtain the types and extent of insurance required, followed at a later date by proof of insurance once it is obtained. If a facility is damaged in a subsequent disaster prior to work being completed from a previous disaster, the LOC for the O&M requirement allows the first disaster projects to remain open and allows the facility damaged in a subsequent disaster to be eligible for funding and proceed with the project formulation and insurance review process.

XI. Building Code and Floodplain Management Administration and Enforcement (Category I)

After a disaster, recovering communities face an increase of administration and enforcement work to ensure that repair and replacement of damaged facilities and infrastructure meet adopted regulatory requirements, such as those set forth in floodplain management regulations and building codes. Additional resources are spent reviewing permits, inspecting repair work, and enforcing adopted regulations.

The Disaster Recovery Reform Act (DRRA) of 2018 amended Sections 402 and 406 of the Stafford Act to authorize FEMA to provide communities PA funding to effectively administer and enforce building codes and floodplain management ordinances for a period of no longer than 180 days after the date of the major disaster declaration. FEMA reimburses costs for eligible work starting on the first day of the incident period

[419] 44 C.F.R. § 206.253(c).
[420] 44 C.F.R. §§ 206.252(d) and 206.253(c).
[421] 44 C.F.R. § 206.253(b)(2).
[422] Stafford Act § 311(c); 42 U.S.C. § 5154(c); 44 C.F.R. Part 75.

and up to 180 days following the date the major disaster declaration is amended to authorize PA permanent work. FEMA will not extend assistance beyond 180 days for these activities.

All communities that participate in the National Flood Insurance Program must adopt and enforce regulations that meet or exceed the minimum standards for participation. These standards apply in the community's regulated floodplain. All development in this area must be reviewed for compliance and approved by the local floodplain administrator. These regulations can be found in a variety of places, including stand-alone ordinances, zoning codes, sanitary and sewer regulations, and building codes.

In communities that have adopted building codes, the codes apply to the construction, repair, and rehabilitation of all structures in the community, not just those within the regulated floodplain.

In both cases, local officials review development, construction, and repair proposals for completeness and compliance and issue permits. It is the local official's responsibility to ensure that the developments are compliant through inspections and the receipt of final compliance documentation.

The principles of the DRRA Section 1206 amendments are:

1. Increase the overall speed of recovery by providing assistance to conduct building inspections, review disaster-related development in the floodplain, review applications for permits, and issue permits to adequately administer and enforce adopted building codes and floodplain ordinances.
2. Enhance compliance with state and local building codes and floodplain management ordinances by providing state, local, Tribal Nation, and territorial governments additional resources to carry out required activities after a disaster.

Communities that are suspended from or have been sanctioned for not participating in the National Flood Insurance Program (NFIP) are ineligible for category I activities. The *NFIP Community Status Book*[423] contains the current "NFIP status" of a community in the declared counties.

A. General Requirements

To be eligible, building code and floodplain management administration and enforcement field activities must be:

- Conducted in the designated areas as identified in the major disaster declaration;
- Within the applicant's jurisdiction;[424] and,
- Related to the repair, replacement, retrofit, or relocation of disaster damaged facilities. This may include public, private, and residential structures.

[423] For more information, refer to: Community Status Book | fema.gov.
[424] 44 C.F.R. § 206.223.

Activities to administer and enforce building code and floodplain management ordinances are eligible regardless of whether the building code or floodplain management ordinance in question meets PA's regulatory eligibility criteria for facility restoration.

Example: Building Code Administration

After a disaster is declared, a community decides to update its building code to require a four-foot freeboard for all buildings in the special flood hazard area. Work associated with administering and enforcing the four-foot freeboard for disaster-damaged buildings in the community is eligible under this policy. However, PA would not fund the physical repairs to a school building to meet the new four-foot freeboard requirement since the code was adopted after the date of the disaster declaration and therefore ineligible according to PA regulation and policy (FEMA would fund the repair work to meet the minimum code requirements as described in Chapter 8: Permanent Work Eligibility (Categories C-G) and 44 C.F.R. Part 9.11).

Work that is eligible under category I cannot:

- Be used as the basis for an alternate project;[425] or
- Have an associated hazard mitigation proposal (HMP).

B. Eligible Work

The activities below are eligible under category I. Activities not specifically listed here will be evaluated on a case-by-case basis for eligibility.

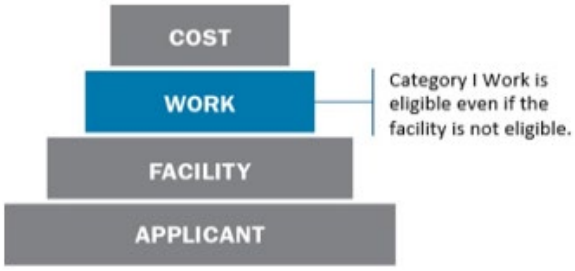


Figure 20. Category I Work Eligibility

1. BUILDING CODE ADMINISTRATION

- Review and process applications for the following:
  - Building permits;
  - Certificates of occupancy;
  - Certificates of compliance; and,
  - Associated plans, specifications, and construction documents for compliance with federal, state, and municipal building, housing, and life-safety codes and standards applicable to disaster-related repair, replacement, or retrofit.
- Process requests for building code variances;
- Collect fees;
- Hire, train, supervise, certify, and license staff, as required to conduct eligible activities;
- Contract for services (e.g., contract planning, initiation, solicitation, evaluation, and award);
- Provide training and information to staff, contractors, and the public on unique considerations for repair of disaster-damaged historic buildings;

[425] Stafford Act Section 406(c); 42 U.S.C. § 5172; 44 C.F.R. § 206.203(d)(2).

- Provide training and outreach to the public on building code and building permit requirements applicable to the repair, replacement, or retrofit of disaster-damaged buildings;
- Establish construction plan reviews and inspection processes, procedures, and instructions for permit holders;
- Monitor impacted areas for unpermitted construction activities; and,
- Coordinate building code administration and enforcement with floodplain management ordinance administration and enforcement, as appropriate.

2. CODE ENFORCEMENT

- Inspect structures under construction for compliance with approved plans, specifications, and all requirements of applicable codes, laws, and ordinances;
- Identify and carry out corrective action in cases where construction, design, and occupancy do not comply with codes and/or ordinances;
- Conduct and process condemnation determinations;
- Review and issue elevation certificates; and,
- Investigate complaints and assist in preparation of materials for abating violations of building codes and related ordinances.

3. FLOODPLAIN MANAGEMENT ORDINANCE AND ENFORCEMENT

- Enforce or administer standards for development according to community floodplain management regulations;
- Determine whether proposed disaster-related development activities are in areas regulated by the community's floodplain management ordinance or building code;
- Hire, train, supervise, certify, and license staff, as required to conduct eligible activities;
- Contract for services (e.g., contract planning, initiation, solicitation, evaluation, and award);
- Provide training and outreach to the public on floodplain permit requirements applicable to the repair, replacement, or retrofit of disaster-damaged buildings;
- Provide training and information to staff, contractors, and the public on unique considerations for repair of disaster-damaged historic buildings;
- Review disaster-related development proposals to ensure compliance with the requirements of applicable floodplain management ordinances;
- Process permits for disaster-related development in the floodplain associated with the declared disaster;
- Inspect all disaster-related development in the applicable jurisdiction;
- Monitor impacted areas for unpermitted construction activities;
- Process requests for floodplain management ordinance variances;
- Process, maintain, and track temporary occupancy permits and inspect temporary occupancy buildings;
- Provide information on flood hazards, floodplain map data, advisory flood data, and compliance to residents and property owners;
- Conduct inspections to ensure the removal of temporary fill and related materials used in flood fighting;
- Take corrective action necessary to ensure compliance with federal, state, and local floodplain regulations; and,

- Coordinate floodplain management ordinance administration and enforcement with building code administration and enforcement, as appropriate.

4. SUBSTANTIAL DAMAGE DETERMINATIONS

- Conduct initial field surveys to determine extent of damage;
- Establish damage trends to identify areas to focus building-specific assessment efforts;
- Prepare cost information on repairs and pre-disaster market value estimates for substantial damage estimates;
- Hire, train, supervise, certify, and license staff, as required to conduct eligible activities;
- Collect field data for damage assessments;
- Enter damage inventory administrative data into the Substantial Damage Estimator or comparable data collection software;
- Track cumulative substantial damage and repetitive loss for communities, if required;
- Conduct damage inventory of structures;
- Inform property owners of damage determination and provide compliance requirements;
- Perform inspections to ensure compliance with repair and substantial damage construction requirements;
- Determine whether proposed improvements are substantial improvements and trigger requirements for compliance, including a building permit;
- Determine if damaged structures have been designated as historic or that may be eligible for such designation; and,
- Review, adjudicate, and resolve substantial damage determination appeals.

C. Ineligible Work

Funding is limited to work that is required as result of the declared incident. The following are ineligible:

- Activities associated with non-disaster damaged structures or non-disaster-related development; and,
- Activities to update a community's laws, rules, procedures, or requirements, such as:
  - Adopting new or updating current building codes or floodplain management ordinances;
  - Adopting or updating zoning laws and requirements; and,
  - Developing new land use plans or requirements.

For category I activities, only overtime costs are eligible for budgeted labor. Straight-time and overtime costs are eligible for unbudgeted labor.

D. Required Documentation and Information for Category I Work

Applicants must submit the following to support claims for category I projects:

Table 30. Required Documentation and Information for Category I Work

For Small Projects	For Large Projects
▪ List of activities performed; and, ▪ Number of locations where activities took place (if applicable).	▪ List of activities performed; ▪ Documentation necessary to demonstrate work completed, such as activity logs or sign in sheets; ▪ Number of locations where activities took place (if applicable); ▪ Locations where activities were conducted, including addresses or GPS coordinates (if applicable); and, ▪ Copies of the rights-of-entry and agreements to indemnify and hold harmless the federal government (if applicable).

Chapter 9: Scoping, Costing, and Final Reviews

Damage and impact information is the foundation of the project because the scope of work (SOW) and cost eligibility are tied to the eligible damage. FEMA and the applicant should work together to reach an agreement on the disaster-related damage description and dimensions (DDD), emergency protective measures, and debris impacts before proceeding with SOW development. FEMA reviews applicant-provided information to develop or validate the SOW and cost estimate for each project, develop PA Hazard Mitigation Proposals (HMPs), and ensure compliance with applicable requirements. The "Public Assistance Program Delivery Guide"[426] provides an overview of these process steps. For cost estimate reviews, FEMA uses the checklist provided in Appendix L: Validation of Applicant-Provided Cost Estimates.

I. Scope of Work Development

The scope of work describes the method of repair of damaged elements. The method of repair refers to the specific approach or technique used to restore, replace, or repair damaged facilities or infrastructure. The scope of work necessary to repair the damage or address the impacts must be completely described and correspond directly to the cause of damage. Descriptions of repair work should be specific to elements of damage and defined in quantifiable (e.g., length, width, depth, and capacity) and descriptive terminology (e.g., brick, wood, asphalt, timber deck bridge).



Examples: Information to Provide for Scope of Work Development

To develop the scope of work, applicants should also provide the following for each site (not an all-inclusive list):

- Percentage of work completed;
- Who performed, or will perform, the work (e.g., force account, contract, mutual aid);
- Proposed or completed scope of work, including PA hazard mitigation measures, and identified consensus-based codes, specifications, and standards requirements; and,
- Technical studies, reports, and assessments.

A. Traditional Tribal Residential and Ceremonial Structures – Inspecting, Scoping, & Estimating

PA has well-established processes for determining damage along with scoping and estimating work to restore infrastructure for a wide range of facility types. These guidelines are often based on national standards and best practices. While the primary focus of PA is on public infrastructure like roads, bridges, schools, and utilities, it has provisions that extend to tribal-owned residential structures and tribal ceremonial buildings. Although PA can fund restoration to tribal-owned residential structures and tribal

[426] For more information, refer to: *Public Assistance Program Delivery Guide*.

ceremonial buildings, there are no PA processes that take into account traditional tribal structures that must be built in a manner consistent with maintaining their cultural, historical, governmental, or ceremonial construct, which can be traditionally made of adobe, mud, earth, clay, rock, and wood.

To address this disparity, FEMA will accept a Tribal Nation's certified damage assessment, scope of work for restoration, and estimated costs for traditional tribal residences or tribal ceremonial buildings. Additionally, PA supports Tribal Nations' ability to build back stronger by identifying available codes and standards applicable for traditional residential structures that Tribal Nations can consider adopting and that can be incorporated into restoration scopes of work in future disasters. Further, cost effective mitigation measures for traditional tribal residential structures and ceremonial buildings will be provided to tribal applicants and recipients to preserve the homes of indigenous people.

II. Cost Development

While FEMA or the recipient may assist the applicant with preparing project applications based on actual or estimated costs, the applicant is ultimately responsible for developing and documenting all costs.

A. Project Thresholds

FEMA establishes a minimum project threshold for each federal fiscal year. If a project application totals less than the minimum threshold, the project is ineligible for FEMA funding.[427] The project application total includes hazard mitigation costs and accounts for insurance proceeds and other reductions to avoid duplication of benefits. The threshold applies to incidents declared within that fiscal year and is based on the Consumer Price Index.[428]

The minimum threshold applies to each project application, not to each damage line item. FEMA does not combine work among several sites into one project application for the sole purpose of reaching the minimum threshold. Additionally, FEMA does not process project applications under the minimum threshold unless the applicant intends to appeal disputed scope of work or costs that would increase the project amount to *at least* the minimum threshold. The minimum threshold does not apply to donated resources or management costs; however, these projects are only eligible when the donated resources or management costs are related to an eligible project that meets the minimum threshold.

FEMA also establishes a dollar threshold[429] each federal fiscal year for the implementation of simplified procedures under Section 422 of the Stafford Act. This threshold defines a project as large or small.[430]

- A large project has costs equal to or greater than the threshold.
- A small project has costs below the threshold.[431]

[427] 44 Code of Federal Regulations (C.F.R.) § 206.202(d)(2).
[428] The project threshold amount is available at: Per Capita Impact Indicator and Project Thresholds | fema.gov.
[429] The project threshold amount is available at: Per Capita Impact and Project Thresholds | fema.gov.
[430] 44 C.F.R. § 206.203(c).
[431] Stafford Act § 422; 42 United States Code (U.S.C.) § 5189; 44 C.F.R. § 206.203(c).

FEMA administers funding for large and small projects differently. For large projects that are not capped, FEMA adjusts any estimated costs to the actual incurred amount so that the final approved funding is based on actual costs.[432] For small projects, FEMA does not adjust estimated costs to the actual incurred amount.[433] FEMA determines whether a project is large or small based on the final approved amount of eligible costs after any cost adjustments, including insurance reductions.

B. Expedited Projects for Emergency Work

FEMA may provide expedited funding for emergency work projects (category A or B) that meet or exceed the large project threshold. FEMA funds expedited projects at 50 percent of the federal share of the estimated project cost. Requests for expedited projects must be submitted to FEMA within 60 days of an applicant's recovery scoping meeting. To support its request, an applicant must provide enough information for FEMA to validate that the work and costs are eligible. FEMA will work to obligate funding within 90 days of receipt of the request.

FEMA's obligation of an expedited project is not an authorization for a recipient to advance funds without the documentation to support the drawn funds. Expedited advance payments are limited to the "minimum amounts needed" and for payments to be timed based on the "actual, immediate cash requirements" to perform the eligible work.

For the development and obligation of an expedited project, an applicant needs to provide the following, broken down by the applicant's monthly (or bi-weekly) operational periods:

- A detailed description of the work and documentation to substantiate that the work is eligible, including:
  - Description of immediate threat;
  - Detailed description of work activities performed or plans to perform;
  - Work locations; and,
  - For debris: estimated quantities by type of debris.
- The total estimated cost must be reasonable, supported by documentation and include the following:
  - Itemized cost estimate with basis for estimate (e.g., actual costs, historical unit costs, average costs for similar work in the area, or contractor or vendor quotes including pre-qualified contracts);
  - Insurance policies;
  - Labor including mutual aid:
    - Budgeted employees: Total regular and overtime hours with average rate for each type of employee;
    - Unbudgeted employees: Total regular and overtime hours with average rate for each type of employee;
    - Mutual aid: Total regular and overtime hours with average rate for each type of employee (e.g., mutual aid, National Guard, or prison labor); and,

[432] 44 C.F.R. § 206.205(b).
[433] 44 C.F.R. § 206.205(a); Stafford Act § 422; 42 U.S.C. § 5121.

    - Mutual aid agreement, memorandum of understanding or other written agreement.
  - Equipment:
    - Applicants own equipment: Equipment type, usage, and rate for each type of equipment;
    - Purchased equipment: Equipment type and cost; and,
    - Rented or leased equipment: Equipment type and rate for each type of equipment.
  - Supplies:
    - Purchased: Type, quantity, and cost for each type; and,
    - From stock: Type, quantity, and cost for each type;
  - For contract work:
    - Documentation to support the estimate (e.g., request for proposal(s), bid documents, or contracts including pre-qualified contracts).
- Debris monitoring information; and,
- Other emergency work costs:
  - Travel: Number of individuals, purpose, duration, and average rate;
  - Meals: Number of individuals, purpose, duration, and average rate; and,
  - Miscellaneous: Quantity, purpose, duration, and average rate.

If category A or B has an increased federal cost share for a limited timeframe, applicants need to separate work anticipated to be completed within the increased cost share timeframe from that to be completed after the increased cost share period (see Increased Federal Cost Share for a Limited Timeframe in Chapter 6).

FEMA estimates the cost of the work based on cost information provided by applicants. If an applicant does not provide sufficient cost information, FEMA may use average historical pricing. For contracted work, FEMA uses the unit cost from the contract if it determines the costs are reasonable; however, this is only for the purpose of expediting funding based on an estimate. FEMA reviews the applicant's procurement and contracting for compliance and addresses any noncompliance prior to or at final reconciliation and closeout of the project.

FEMA provides the federal cost share for the remaining 50 percent of the project cost once an applicant provides all documentation required to support the estimated project cost for a non-expedited project.

C. Costs for Projects with All Work Completed

For projects with all work complete, FEMA works with applicants to:

- Verify and collect programmatic, insurance, and hazard mitigation information;
- Ensure Environmental and Historic Preservation (EHP) grant conditions are met;
- Ensure vulnerable communities are not negatively impacted by the work completed;
- Verify information and documentation requirements; and,
- Address contextual information needed for supporting the applicant's claim for completed work.

When work for a large project is 100 percent complete, FEMA will provide funding based on actual costs. FEMA reviews the documentation submitted by the applicant and will make its eligibility determination based on the documentation received. FEMA will deny assistance for costs that are not supported by documentation. If actual cost documentation is not readily available and the applicant has provided sufficient documentation to define the scope of work completed, FEMA will provide funding for completed work based on a cost estimate.

There may be cases where, during review of the documentation submitted, FEMA determines additional information or explanation is required. In these instances, FEMA may generate a request for information (RFI) specifying a deadline for response. After a time determined appropriate by the Regional Administrator or Federal Coordinating Officer, a determination memorandum (DM) will be issued if documentation is not provided to fully support eligibility. For more information about the process, see Appeal Rights and Requirements in Chapter 2.

For small projects, FEMA may accept certification in lieu of documentation to support costs claimed and may process the project(s) based on estimated costs even if all work is completed if the applicant has provided sufficient documentation to define the completed scope of work.[434]

However, with exception of the scenarios listed under Small Projects in Chapter 12, small project estimates are not subsequently adjusted to reflect actual costs. Applicants must still retain documentation to request a net small project overrun appeal.

D. Estimating Emergency Work Projects with Work to be Completed

With the exception of debris removal and emergency repair projects, emergency work is often difficult to estimate due to the type of work conducted. Unlike permanent work, where a detailed scope of work is usually determined and estimated based on the damage, the detailed scope of work to address emergency response activities is often unknown and therefore difficult to estimate in advance. Additionally, emergency response activities generally do not have established unit pricing and other variables, which can impact pricing. If an applicant provides sufficient information, FEMA may process emergency work projects based on estimates.

E. Estimating Permanent Work Projects with Work to be Completed

When work is not yet complete, FEMA determines the amount of PA funding based on the estimated cost to restore the damaged facility to its pre-disaster design and function, including eligible codes and standards. The amount may include a reasonable amount of anticipated soft costs but does not include costs that are only related to, or only triggered by, changes to the pre-disaster design or function of the damaged facility. These include, but are not limited to, costs related to.

- Engineering and design;
- EHP compliance; and,

[434] Stafford Act § 422; 42 U.S.C. § 5189; 44 C.F.R. § 206.205(a).

- Work required by codes or standards identified by the applicant and verified by FEMA.

If FEMA develops the scope of work, it will also develop the associated cost estimate.

1. PROJECTS REQUIRING ENGINEERING ANALYSIS

Some projects may require an engineering analysis to determine the method of repair. In these cases, FEMA will provide PA funding for engineering and design services if requested by an applicant.

2. APPLICANT ESTIMATES

FEMA accepts an applicant-submitted cost estimate if the estimate:

- Is prepared by a licensed professional engineer or other estimating professional, such as a licensed architect or certified professional cost estimator who certifies that the estimate was prepared in accordance with industry standards;
- Includes certification that the estimated cost directly corresponds to the repair of the agreed upon damage;
- Is based on unit costs for each component of the scope of work and not a lump sum amount;
- Contains a level of detail sufficient for FEMA to validate that all components correspond with the agreed-upon scope of work;
- Is based on the current phase of design or construction inclusive of any known costs;
- Includes actual costs for work completed at the time the cost estimate is developed; and,
- Is reasonable.

Any foreseeable contingency costs such as security, staging, etc. should be included in an applicant-submitted cost estimate. FEMA evaluates applicant-submitted estimates for reasonableness based on the criteria under Reasonable Costs in Chapter 6.

3. FEMA ESTIMATES

When FEMA develops cost estimates for sites with permanent work that are less than 90 percent complete and total costs are expected to meet or exceed the large project threshold, FEMA uses the Cost Estimating Format (CEF) in accordance with the "CEF Instructional Guide."[435] The "CEF Instructional Guide" defines various factors and the range of percentage values that FEMA may apply to projects. In rare cases, a factor may need to be reviewed or adjusted. FEMA Headquarters has access to technical assistance to review the appropriate ranges for factors. Only FEMA Headquarters has the authority to approve the use of factors that exceed the CEF specified range or approve additional factors. However, for capped projects (improved and alternate projects), FEMA only includes the CEF contingency factor "Applicant Reserve for Change Orders" and does not include any additional factors or risk premiums.

4. INSURANCE REDUCTIONS

FEMA reduces the estimate to account for insurance coverage based on:

- Actual insurance proceeds, if known; or

[435] For more information, refer to: Cost for Large Projects Instructional Guide, Version 2.1 | fema.gov.

- Anticipated insurance proceeds based on the applicant's insurance policy if the amount of actual proceeds is unknown.

III. Compliance Reviews

FEMA conducts a series of reviews to ensure program compliance. FEMA reviews projects for quality assurance, insurance requirements, PA hazard mitigation eligibility, and EHP compliance.

IV. Obligation

FEMA obligates funding to recipients and transitions recovery roles and responsibilities.

A. Obtaining Funds

FEMA obligates the federal share of the eligible project cost to a recipient.[436] Once obligated, the project constitutes the official record of the approved scope of work. FEMA's authority to provide funding for small projects as one lump sum based on an estimate does not require recipients to obligate funding in the same manner. Recipients must expend and account for the federal award in accordance with its laws and procedures for expending and accounting for the state, Tribal Nation, or territory's own funds.[437]

B. Strategic Funds Management

Strategic funds management is FEMA's process for obligating PA funding based on an applicant's schedule to execute the work. If a permanent work project is greater than $1 million and the applicant does not need funds for more than 180 days from the time the project is ready for obligation, FEMA obligates funds based on the project completion schedule. FEMA's Strategic Funds Management Instruction (FEMA SOP 9570.24) addresses this obligation process in detail.[438]

The recipient is responsible for notifying the applicant that funds are available[439] and for distributing the funds to the appropriate subrecipient.[440] Funds that FEMA has obligated are available to recipients to pass through to the appropriate subrecipient.[441]

[436] 44 C.F.R. § 206.202(e).
[437] 2 C.F.R. § 200.302.
[438] For more information, refer to: *Strategic Funds Management Instruction (FEMA SOP 9570.24)*.
[439] 44 C.F.R. § 206.200(b)(2)(i).
[440] 44 C.F.R. § 206.202(a).
[441] 44 C.F.R. § 206.200(b)(2)(ii).

Chapter 10: Environmental and Historic Preservation

All federally funded projects are required to undergo a review process to assess potential impacts and compliance with applicable federal laws, regulations, and executive orders (EOs). This chapter is designed to inform applicants on the requirements and expectations of the environmental and historic preservation (EHP) compliance review process to ensure smooth communication and efficient progress throughout the PA Grant Lifecycle.

I. EHP Compliance

PA funded projects must comply with FEMA Directive 108-1, Environmental Planning and Historic Preservation Responsibilities and Program Requirements.[442] Additionally these projects must comply with all applicable EHP laws, implementing regulations, and EOs and address adverse impacts to environmental and historic resources through avoidance, minimization, or compensatory measures. These EHP requirements aim to protect various resources such as water, air, coastal areas, wildlife, land, agriculture, historic facilities, cultural resources, and minimize adverse effects on low-income and minority populations. When PA provides funding to applicants, these grants must comply with laws and regulations designed to protect natural, cultural, and historic resources. A greensheet is a tool, prepared by EHP at the beginning of each declaration, which discusses EHP information specific to the disaster declaration designated area(s).

EHP specialists assist applicants by providing technical expertise throughout the PA Program delivery process. They inform applicants of the legal requirements associated with their grant funding, such as:

- Acquisition of permits and letters of exemption;
- Contact information for local, state, and federal regulatory agencies; and,
- Simplified guidance on how to understand and meet any project-specific conditions of the record of environmental consideration (REC).

Applicants play a critical role in the EHP review by communicating any concerns and questions to the assigned PA and EHP specialist teams early and often. By providing complete and accurate information and addressing any potential changes to the scope of work, applicants can facilitate the project compliance review and reduce the amount of time for project obligation.

Terminology

A **record of environmental consideration (REC)** is a FEMA administrative document that records the application of a categorical exclusion (CATEX) or statutory exclusion (STATEX) to a specific proposed action (scope of work) and captures the compliance determinations made for all applicable EHP laws

[442] For more information refer to: *EHP Directive & Instruction (FEMA Directive 108-1 & Instruction 108-1-1).*

and EOs. The REC is also used to convey any conditions for compliance that have been placed on the project.

A. EHP Compliance Review

FEMA's goal is to assist applicants in their efforts to recover from a devastating incident and ensure all recovery work protects resources and minimizes adverse effects. To accomplish this, all PA funded projects are required to undergo an EHP review. EHP specialists need information about the work to determine what requirements apply to a project to complete the review. EHP specialists review an applicant's scope of work (SOW) and supporting documentation to understand what the applicant proposes to do, the locations of the work including equipment and material staging locations, and what natural or cultural resources may be impacted. See Chapter 9: Scoping, Costing, and Final Reviews for more information on how to create a complete SOW which includes all the necessary details for EHP to complete their review. During the review, EHP evaluates the potential impacts of the project on the natural and built environment. The findings are documented in a REC which is included in every project. An EHP specialist will inform the applicant of any consultation(s) with regulatory agencies needed and all project-specific compliance conditions.

For completed or partially completed work, applicants are required to provide all documentation and evidence to demonstrate compliance with any project-specific conditions. Documentation associated with the EHP review process may include items such as permits, certification of compliance with applicable conditions, post-construction surveys, etc. See Chapter 12: Final Reconciliation and Closeout for more information.

EHP review timeframes can vary depending on the complexity of the scope of work, resources affected, public notice requirements, and consultation with regulatory agencies.[443]

1. REQUIRED INFORMATION AND DOCUMENTATION

FEMA requires the applicant to provide information about the scope of work to support the EHP review. Applicants can support a smooth review process by providing the following commonly triggered information and documentation requirements during the project formulation process:

- Physical address, if applicable, and global positioning system (GPS) coordinates for specific work sites (e.g., equipment and material staging locations, ground disturbance locations, material fill source locations);
- Dimensions of all ground disturbance (area: length, width, and depth);
- Repair or restoration details (including type and quantity of materials, equipment, and supplies used);
- Original date of facility construction and subsequent renovations;
- Equipment and materials staging information;
- Temporary and final disposal site information for debris;

[443] For more information, refer to: Environmental Planning and Historic Preservation | fema.gov.

- Timeframe of work performed;
- Source of fill material;
- Maps or photographs to support the SOW;
- Plans, drawings, and/or blueprints to explain the SOW;
- Studies and surveys, if requested; and,
- Applicable permits, authorizations, and correspondence with regulatory agencies.

FEMA generates a request for information (RFI) for clarification or additional documentation if more information is needed to support EHP compliance review. See the Requests for Information section in Chapter 2 to learn more about the RFI Process.

B. Projects that Qualify for Streamlined EHP Review

All projects are subject to an EHP compliance review, however the timeframes for this review vary depending on the type of project. FEMA EHP collaborates closely with regulatory partners to create streamlined procedures and processes, such as programmatic agreements or consultations. These programmatic documents contain predetermined compliance decisions based on reviews that assess the potential impacts of projects or actions that are carried out repeatedly and are likely to have similar effects that can be assessed on a broader scale. These tools enable EHP specialists to make compliance determinations quickly, without the need for consultations with various multiple parties or regulatory agencies.

Examples: PA Projects that Qualify for Streamlined EHP Review

- Projects intended to restore the facility back to pre-disaster condition using in-kind or like materials;
- Projects with codes and standards upgrades;
- Projects involving replacement of contents, supplies, or equipment; and,
- Projects with minor repair, restoration, or construction on buildings or structures less than 45 years old and that are not listed or eligible for listing in the National Register of Historic Places.

C. Projects Requiring Complex EHP Review

Projects that have potential for impacts to natural and cultural resources will require more detailed information and longer compliance review time. These types of projects often require consultations or coordination with other resources or regulatory agencies, including:

- U.S. Fish and Wildlife Service (USFWS);[444]
- U.S. Environmental Protection Agency (EPA);[445]
- National Marine Fisheries Service (NMFS);[446]

[444] For more information, refer to: U.S. Fish and Wildlife Service (USFWS) | fws.gov.
[445] For more information, refer to: U.S. Environmental Protection Agency (EPA) | epa.gov.
[446] For more information, refer to: National Marine Fisheries Service (NMFS) | noaa.gov.

- U.S. Army Corps of Engineers (USACE);[447]
- State Historic Preservation Offices (SHPO);[448]
- Tribal Historic Preservation Offices (THPO);[449] and,
- Other applicable local, state, and territorial regulatory agencies.

Regulatory agencies have the authority to evaluate and approve projects through consultations or permitting decisions. When a project requires FEMA to consult with a regulatory agency, the estimated timelines are established by the responsible regulatory federal, state, and Tribal Nation resource agencies. See the Understanding EHP Laws and Executive Orders in this chapter for more information.



Examples: Projects with the Potential to Impact Natural and Cultural Resources

Examples of projects with the potential to impact natural and cultural resources include:

- New construction or changes in the location, footprint, or size of a facility;
- An increase in the size, alignment, or location of a road, bridge, or culvert;
- Hazard mitigation and codes and standards upgrades;
- Work affecting buildings, structures, sites, objects, or districts that are 45 years or older, historic landmarks of any age, and any work resulting in soil movement or change to the pre-disaster footprint;
- Work near or within a special flood hazard area (regulatory floodway or the 1% annual chance floodplain zone (100-year), or, for critical actions, in the 0.2% annual chance floodplain zone (500-year);[450]
- Work in or near environmentally sensitive areas such as barrier islands, conservation easements, fish hatcheries, preserves, state and national parks, and wildlife management areas;
- Work in or near beaches, canals, lakes, rivers, streams, wetlands, or other bodies of water including fishing piers;
- Staging and disposal (or recycling) of debris including, but not limited to, vegetative, construction and demolition (C&D), and hazardous materials as a result of either the disaster event or the project work; and,
- Actions that may result in disproportionately high and adverse effects to low income and minority populations per EO 12898.

Projects requiring complex EHP review are broken out by PA project type in the paragraphs below.

1. EMERGENCY WORK (CATEGORIES A AND B)

While FEMA's statutory exclusions under Section 316 of the Stafford Act exempt most emergency actions from review under the National Environmental Policy Act (NEPA), compliance with other laws, such as the

[447] For more information, refer to: U.S. Army Corps of Engineers (USACE) | USACE.army.mil.
[448] For more information, refer to: State Historic Preservation Offices (SHPO) | nps.gov.
[449] For more information, refer to: Tribal Historic Preservation Offices (THPO) | nps.gov.
[450] For more information, refer to: Floodplain Management and Wetland Protection.

Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), the Resource Conservation and Recovery Act (RCRA), the State Solid Waste Laws, the Clean Air Act (CAA), the Clean Water Act (CWA), and Executive Orders 11988 (Floodplain Management), and 13112 (Invasive Species), is still required.

2. DEBRIS REMOVAL (CATEGORY A)

Although debris removal is usually statutorily excluded from the NEPA review, FEMA must ensure compliance with other EHP-related federal laws, regulations, and EOs prior to funding the work. Accordingly, FEMA must ensure that the applicant's debris removal operations avoid impacts to such resources as 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). Additionally, debris removal operations must avoid impacts that contribute to hazardous gas release and water supply contamination. Applicants must ensure they follow conditions established by state, local, Tribal Nation, and territorial authorities and must stage debris at a safe distance from property boundaries, surface water, floodplains, wetlands, structures, wells, and septic tanks with leach fields. Additional coordination may be necessary for debris removal from waterways, stump removal, and use of fill.

Applicants are responsible for permits and compliance with federal, state, Tribal Nation, and territorial requirements. The applicant needs to work with the disaster EHP staff to gain clarity on compliance requirements and permits for debris-related operations. Upon completion of debris removal, recycling, and disposal, site remediation may be necessary at staging sites and other impacted areas.

3. EMERGENCY PROTECTIVE MEASURES (CATEGORY B)

Although emergency protective measures are usually statutorily excluded from NEPA review, FEMA must ensure compliance with other EHP-related federal laws, regulations, and EOs prior to funding the work. Accordingly, FEMA must ensure that the applicant's emergency protective measures, where possible: 1) avoid impacts to resources such as federally listed threatened and endangered species and their critical habitats, and historic properties; and 2) consider impacts to and from floodplains and wetlands.

For emergency work that occurs in or near impacted areas that have natural and cultural resources, FEMA encourages applicants to coordinate prior to conducting work to front-load any applicable EHP considerations in a timely manner. For work that is complete at the time the project application is submitted to FEMA, documentation is still needed to facilitate the EHP review of emergency work projects and to demonstrate EHP compliance even if it is after-the-fact. See Chapter 12: Final Reconciliation and Closeout for more information.



Examples: Emergency Work Projects that have the Potential to Impact EHP Resources

Examples of emergency work projects that have the potential to impact EHP resources include:

- Burning of debris;
- Debris removal from waterways and shorelines;
- Mold remediation;

- Mosquito abatement;
- Construction of temporary access roads, levees, and emergency berms;
- Demolition of unsafe structures;
- Purchase or construction of temporary facilities for essential community services; and,
- Temporary actions in coastal areas.

4. PERMANENT WORK (CATEGORIES C-G)

Permanent work projects that involve changes in location, footprint, alignment, or size of a facility or that occur in or affect natural and cultural resources often require a more intensive EHP review and trigger more compliance requirements. These projects often include alternate or improved projects, projects that involve significant changes to the pre-disaster configuration or the relocation of a facility, projects that incorporate codes and standards upgrades, or projects that incorporate hazard mitigation. It is important to understand EHP requirements for these types of permanent work projects.



Examples: Permanent Work Projects that have the Potential to Impact EHP Resources

Examples of permanent work projects that have the potential to impact EHP resources include:

- Upsizing culverts and redesigning water conveyance structures;
- Replacing or relocating of a bridge;
- Modifying to the interior or exterior of a historic building;
- Reconstructing of a waterfront boardwalk or pier;
- Relocating and/or burying utility lines;
- Beach renourishment projects;
- The relocation of facilities to undisturbed areas;
- Repairs to substantially damaged structures within the floodplain; and,
- New structures or facilities.

i. Disposition of Original Facility

For alternate and alternative procedures projects, if the applicant does not repair, replace, or sell the damaged facility for which the capped project funding was based, and that facility is unsafe if not repaired, the applicant must render the facility safe and secure (e.g., by restricting access, locking doors and windows, constructing a fence around the property) or demolish it and provide the necessary assurances to document compliance with special requirements.[451]

[451] 44 C.F.R. § 206.203.

If an applicant receives funds for salvaged components of the facility, FEMA adjusts the capped project funding by the value or anticipated fair market value of salvaged materials less the estimated costs necessary to demolish the facility, grade the site, or make the facility safe and secure.

For any work proposed by an applicant using PA funds at the original site, such as making the damaged facility safe and secure or demolishing it, FEMA must conduct EHP compliance review. When no PA funding is used for work proposed at the original site, FEMA will require the applicant, as a condition of the grant funding for alternate and alternative procedure projects, to coordinate with necessary agencies including the state historic preservation officer or tribal historic preservation officer (SHPO/THPO), U.S. Fish and Wildlife Service, National Marine Fisheries Service, or the U.S. Army Corps of Engineers, to determine if the proposed work will adversely affect any historic properties and/or natural resources, and consider any measures recommended by the agencies to avoid, minimize, treat, or otherwise address adverse effects identified. The applicant must provide FEMA with documentation of its coordination with the agencies, and any agreed upon measures to address adverse effects. The applicant is responsible for all costs associated with said coordination and agreed upon measures unless they are directly related to the restoration of disaster-related damage. See Appendix D: Environmental and Historic Preservation Compliance for a description of common EHP laws, regulations, and executive orders (EOs).

If an applicant opts to keep a damaged facility for a later use, the facility is eligible for PA funding in future incidents, provided the applicant repaired the facility in accordance with current codes and standards, and completed any mitigation measures, or other requirements that FEMA included in the original SOW prior to the incident. The applicant must also maintain and obtain insurance according to the requirement placed on the original project.

D. Navigating the EHP Compliance Process

While FEMA EHP provides technical assistance and guidance to applicants in each step of the application process, there are some things applicants can do to help ensure a timely and efficient EHP review. Below are some guidelines to help applicants navigate the EHP compliance process:

- Provide detailed information for assessing potential impacts, including a complete and clear scope of work to minimize requests for clarification and information.
- Provide maps or sketches of work details, photographs, site plans, and area descriptions of pre-disaster conditions and proposed or completed work to reduce requests for information from EHP.
- Obtain any necessary permits and/or authorizations prior to construction.
- Provide any pre-existing permits and/or authorizations. FEMA may be able to expedite the EHP compliance review based upon existing and applicable permit and/or authorization documentation.
- Document and keep copies of any correspondence with federal or state agencies regarding permits and/or authorizations. Attach those copies to the grant application.
- Adhere to permit and/or authorization conditions for implementing work and utilize identified best management practices as specified by regulatory agencies. Verify conditions were met if work is completed.

E. Understanding EHP Laws and Executive Orders

The most commonly encountered federal laws FEMA reviews for EHP compliance include: the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, Executive Order 11988 Floodplain Management, Executive Order 11990 Wetlands Protection, the Coastal Barrier Resources Act, and the Clean Water Act (CWA). More information about these laws is provided in the sections below.

Depending on the project location and type of work, compliance with other laws, such as the Coastal Zone Management Act (CZMA), the Resource Conservation and Recovery Act, or the Marine Mammal Protection Act may be required. See Appendix D: Environmental and Historic Preservation Compliance for descriptions of additional EHP laws and Executive Orders (EOs) that are not covered in this section.

1. NATIONAL ENVIRONMENTAL POLICY ACT

The purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision-making process undertaken by federal agencies. NEPA requires that the effects of proposed actions and alternatives on the human environment be shared with the public and considered by an agency before deciding on the proposed action. The human environment includes the natural and physical environment and the relationship of people within that environment.

EHP considers the statutory necessity and likelihood of environmental consequences of a proposed action or connected actions when determining the appropriate level of NEPA review:

- **Statutory exclusion (STATEX)** means the work (proposed action) is exempt from NEPA review because actions covered by STATEX are required in the aftermath of a disaster to return facilities to their pre-disaster condition and therefore have little or no impact on the environment.
- **Categorical exclusion (CATEX)** is a form of NEPA compliance that applies to actions that do not need to undergo a detailed NEPA review because the agency has evaluated and demonstrated that these types of work (actions) do not normally have the potential to have a significant effect upon the environment. Moreover, CATEXs are applied to projects that have no extraordinary circumstances present, which would require a more detailed NEPA review (environmental assessment or environmental impact statement).
- **Environmental assessments** are prepared for projects that do not fall under a STATEX or CATEX and when it is unlikely or unknown whether the proposed project would cause significant environmental and/or historic impacts. This is a more detailed examination of the project and requires an evaluation of alternatives and public involvement component. Environmental assessments can result in the following:
  - A **finding of no significant impact** means the action will not have significant impacts and is not highly controversial in terms of environmental impacts.
  - A **notice of intent (NOI)** to prepare an environmental impact statement (EIS) means that the action may have significant impacts or controversy in terms of environmental impacts, and an EIS that results in a record of decision should be prepared.
- **Environmental impact statement (EIS)** examines a major federal action that significantly affects the quality of the human and natural environment. It is a detailed impact study that requires extensive agency and public coordination.

2. NATIONAL HISTORIC PRESERVATION ACT

Emergency protective measures, debris removal, and permanent work to repair, restore, or replace disaster-damaged facilities may impact historic properties, including buildings, structures, sites, including archaeological resources, objects, and districts. Section 106 of the National Historic Preservation Act (NHPA)[452] requires FEMA to assess if PA-eligible work will affect such properties and consult with the state historic preservation officer (SHPO) and/or tribal historic preservation officer (THPO), and other consulting parties, including the applicant and recipient, to resolve any adverse effects to identified properties through avoidance, minimization, or compensation measures. Through the execution of programmatic agreements with the SHPO/THPO and recipient, FEMA ensures streamlining of the Section 106 compliance process while integrating historic preservation considerations into the formulation and implementation of PA projects.

3. ENDANGERED SPECIES ACT

Under the Endangered Species Act (ESA), the federal government (including FEMA) has the responsibility to protect endangered species (species that are likely to become extinct throughout all or a large portion of their range), threatened species (species that are likely to become endangered in the near future) and critical habitat (areas vital to the survival of endangered or threatened species). Under Section 7 of the ESA, all federal agencies including FEMA are required to review their actions or funded actions, including PA projects, for potential effects to federally-listed species or critical habitat. If FEMA determines there will be an effect to species or their critical habitat, they must consult with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service on that action. The consultation may be informal or formal depending on the level of effects to species or critical habitat. Consultation may result in the application of project-specific conditions such as timing restrictions or construction best practices that an applicant must follow in order to be compliant with the ESA.[453]

4. EXECUTIVE ORDERS 11988 & 11990: FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

FEMA actions, including PA projects, must conform to 44 Code of Federal Regulations (C.F.R.) Part 9, which incorporates the requirements of EO 11988, as amended, and EO 11990. Applicants must review all proposed actions to determine whether they are in the floodplain or wetland. In accordance with EO 11988, as amended, and EO 11990, FEMA must complete an 8-step decision-making process for proposed actions located in the floodplain or wetland, as well as proposed actions that have the potential to affect or be affected by a floodplain or wetland. The applicable floodplain for the action is determined by the type and criticality of the action.

As part of the eight-step decision-making process, FEMA must consider alternative locations and actions, including the use of natural features and nature-based solutions, to determine whether the floodplain or wetland is the only practicable location for that action. Applicants should document alternatives considered as part of their application process to assist FEMA in facilitating this decision-making process. If the floodplain or wetland is the only practicable location, applicants must avoid or must minimize adverse

[452] For more information, refer to: National Historic Preservation Act | fema.gov.
[453] For more information, refer to Endangered Species Act | fws.gov.

impacts to the floodplain or wetland and also be in compliance with any more restrictive federal, state, or local floodplain management standards.[454]

See the Environmental and Historic Preservation Requirements section in Chapter 8 for more information.

5. COASTAL BARRIER RESOURCES ACT

In accordance with the Coastal Barrier Resources Act (CBRA), FEMA may assist projects in otherwise protected areas if they do not require flood insurance after project completion.[455] The CBRA designates relatively undeveloped land along the Atlantic and Gulf Coast as part of the John H. Chafee Coastal Barrier Resources System (CBRS) that are ineligible for most new federal assistance. Projects in a John H. Chafee CBRS unit are eligible only if they qualify for one of the exceptions in Section 6 of the CBRA[456] and comply with FEMA's CBRA regulations that provide further information on the restrictions for funding specific to disaster recovery.[457]

Terminology

Otherwise, protected areas consist of conservation or recreation areas such as national wildlife refuges, state and national parks, local conservation areas, and private conservation areas, although they may also contain private areas that are not for conservation.

All projects that occur in or adjacent to CBRS units must meet one of the CBRA exceptions and require that FEMA consult with the appropriate U.S. Fish and Wildlife Service Ecological Services field office.

Proposed actions carried out within or adjacent to an "otherwise protected area" do not require consultation with the U.S. Fish and Wildlife Service.

6. CLEAN WATER ACT

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into Waters of the United States (WOTUS) and regulating the quality of surface waters. Together with the Rivers and Harbors Act (RHA) of 1899, the CWA helps define the federal government's jurisdiction over, and approach to, managing waters under its jurisdiction. These laws give the U.S. Army Corps of Engineers (USACE), U.S. Coast Guard, U.S. Environmental Protection Agency (EPA), and other agencies permitting authority over certain activities affecting "navigable waters of the United States" subject to federal jurisdiction under the RHA and "navigable waters" subject to federal jurisdiction under the CWA, which are defined as "waters of the United States."

[454] 44 C.F.R. § 9.11(d).
[455] Congress reauthorized the Coastal Barrier Resources Act with the Coastal Barrier Improvement Act of 1990 (Public Law 101-591 [Nov. 16, 1990], expanding the CBRS to include undeveloped costal barriers along the Florida Keys, Great Lakes, Puerto Rico, and the U.S. Virgin Islands. It also added a new category of undeveloped barriers called Otherwise Protected Areas.
[456] 16 United States Code (U.S.C.) § 3505.
[457] 44 C.F.R. § 206 Subpart J.

It is the responsibility of an applicant to obtain any required CWA Section 401 water quality certification and CWA Section 402 National Pollutant Discharge Elimination System permits whenever there is the work in waterways or the potential for discharge of wastewater pollutants (including sediment) to surface waters (e.g., wetlands, ponds, lakes, streams, and rivers). FEMA typically conditions grant approval upon an applicant obtaining all relevant certifications and permits required for the project.

CWA Section 404 establishes a program to regulate the discharge of dredged or fill material into WOTUS, including wetlands. Section 404 requires that a permit be obtained before dredged or fill material may be discharged into WOTUS, unless the activity is exempt from Section 404 regulation. It is the responsibility of an applicant to obtain a Section 404 permit, declare the use of a non-reporting nationwide permit (NWP), or provide documentation that no permit is required.



Examples: Projects That Can Trigger CWA Section 404 Permitting Requirements

Examples of projects that can trigger CWA Section 404 permitting requirements include:

- Dredging wetlands or placement of fill in wetlands;
- Culvert or bridge replacements in WOTUS;
- Shoreline revetments;
- Embankment armoring;
- Repair or replacement of docks and piers; and,
- Beach renourishment.

F. Coordination with Other Federal Agencies

When multiple federal agencies are conducting, supporting (including funding), or permitting projects in the same geographic area, early coordination is essential to avoid the potential for conflicting EHP standards being applied within the same geographic area or on the same project. Accordingly, when FEMA is funding an action with or in the same area as another federal agency, FEMA will coordinate with the applicable federal agencies as early in the planning process as possible to promote streamlining of EHP compliance reviews. For example, public housing agencies (PHAs) are eligible to receive PA funding for projects involving their public housing portfolio. When public housing receives PA funding, FEMA EHP will reach out to the U.S. Department of Housing and Urban Development (HUD) to coordinate on the environmental and historic preservation review process.

1. UNIFIED FEDERAL REVIEW

FEMA has committed to expediting and unifying environmental reviews. The Unified Federal Review (UFR) process[458] offers additional coordination opportunities for FEMA and other federal agencies. The UFR allows for higher-level resolution in instances where agreement on a common approach reaches an impasse.

[458] For more information, refer to: Unified Federal Environmental and Historic Preservation Review | fema.gov.

G. Partnerships and Resources

1. HERITAGE EMERGENCY NATIONAL TASK FORCE

The Heritage Emergency National Task Force (HENTF),[459] a partnership between FEMA's Office of Environmental Planning and Historic Preservation (OEHP) and the Smithsonian Cultural Rescue Initiative (SCRI), strives to protect state, local, Tribal Nation, and territorial (SLTT) cultural and historic resources from the damaging effects of disasters. HENTF supports the Natural & Cultural Resources (NCR) Recovery Support Function (RSF) in developing recovery needs assessments by identifying issues, impacts, and unmet needs of private nonprofit cultural institutions such as museums, libraries, historical societies, city/town clerk offices, and performing arts organizations.

HENTF's 60-plus members – federal agencies and private nonprofit national service organizations – represent expertise in the arts, culture, historic preservation, emergency management, and tribal affairs. HENTF can serve as a technical assistance resource for field staff to address issues specific to applicants in the arts and culture sector, by identifying resources, advising on conservators and allied professionals, and evaluating scopes of work for treatment of objects.

HENTF actions during disaster operations include:

- Coordinating the collection and sharing of incident-specific information to support the federal response;
- Coordinating with its members, state cultural agencies, state, and regional library/archives/museum/arts associations, and SLTT cultural heritage emergency networks for situational awareness; and,
- Aiding in dissemination of PA information and updates via HENTF network to reach stakeholders at the local level.

H. Resource Links

- Environmental & Historic Preservation Grant Preparation Resources
- EHP Tools for Practitioners
- The Heritage Emergency National Task Force (HENTF) | FEMA.gov

[459] For more information, refer to: Heritage Emergency National Task Force (HENTF) | culturalrescue.si.edu.

Chapter 11: Project Monitoring and Amendments

Post award project monitoring includes managing projects, ensuring subrecipients use funds in alignment with the approved scope of work (SOW), adhering to set deadlines, and meeting compliance requirements. Recipients are responsible for assessing the risk of non-compliance for each subrecipient and, if necessary, imposing additional conditions or requirements. Monitoring subrecipients is essential to ensure compliance with federal regulations and the achievement of performance goals, which includes reviewing financial and progress reports.

PA staff support recipients and track the overall progress of disaster operations. PA staff also manage requests for changes in scope, time extensions, project closeouts, appeals, audits, and arbitration. The "Public Assistance Program Delivery Guide"[460] provides an overview of these process steps.

I. Post Award Change in Scope of Work

Subrecipients must ensure PA funding is used exclusively for eligible work specified in the approved project. If a change to the SOW becomes necessary, subrecipients should promptly consult with both the recipient and FEMA to allow sufficient time for FEMA to review the proposed changes for eligibility.

To request a change, subrecipients must submit a written request to the recipient, including both a detailed justification why the change is necessary and supporting documentation for FEMA to substantiate the eligibility of the proposed revision.[461] Subrecipients should include the information outlined in Table 31. Required Documentation and Information to Support Scope of Work Changes to facilitate FEMA's evaluation. If the request involves previously unreported damage, subrecipients must also provide documentation linking the work to the disaster. The recipient then forwards the request and its recommendation to FEMA for review.

Commonly eligible reasons for SOW changes include:

- Alternate repair method is more cost-effective than the original proposed repair method;
- Original repair method is no longer technically feasible;
- Upgrades needed per codes and standards;[462]
- Increase in previously approved quantities due to errors or omissions;
- Discovery of hidden incident-related damage during construction; or
- The subrecipient wishes to pursue an improved or alternate project.

[460] For more information, refer to: *Public Assistance Program Delivery Guide*.
[461] 44 C.F.R. § 206.204(e); 2 C.F.R. § 200.308.
[462] For more information, refer to Codes and Standards in Chapter 8.

Table 31. Required Documentation and Information to Support Scope of Work Changes

Required Documentation and Information to Support Scope of Work Changes for Small and Large Projects

▪ Detailed change(s) to scope of work;
▪ Cost estimate;
▪ Reason for changes:
  ○ Cost estimate if more cost-effective repair method;
  ○ If the original scope of work is not feasible, supporting documentation such as technical reports or surveys;
  ○ If hidden damage (must be found during performance of eligible work):
  – Documentation substantiating the damage is related to the declared incident; and,
  – Photographs documenting damage.
▪ Construction timeline/project schedule:
  ○ Time extension if scope of work change will result in a project delay causing work to be conducted outside the approved period of performance.

II. Work Completion Deadlines

FEMA provides PA funding only for work completed and costs incurred[463] within specified regulatory deadlines (see Figure 21. Work Completion Deadlines). For emergency work, the deadline is six months from the disaster declaration date.[464] For most permanent work, the deadline is 18 months, except for category I projects, which have a 180-day limit. FEMA considers these timelines as the approved period of performance (POP) for a project, defining work completion as fulfilling all tasks in the approved SOW and meeting compliance requirements. This does not include payments for invoices, warranty periods, or grant management activities, such as submitting closeout documentation, reconciling finances, or requesting payment. If additional time is needed, subrecipients must submit a written request to the recipient for a time extension, with the following information:

Deadlines for Completion of Work	
Type of Work	**Timeframe**
Emergency Work	6 Months
Permanent Work	
Categories C-G	18 Months
Category I	180 Days

Figure 21. Work Completion Deadlines

- Dates and justification for all previous time extensions;[465] and,
- A detailed justification for the delay.[466]

Recipients have authority to grant time extensions due to extenuating circumstances. Recipients may extend emergency work up to an additional six months and permanent work up to 30 months on a project-by-project

[463] 2 C.F.R. § 200.309; 44 C.F.R. § 206.204(d)(2).
[464] 44 C.F.R. § 206.204(c)(1).
[465] Ibid.
[466] 44 C.F.R. § 206.204(c)(1).

basis, with the exception of temporary relocation and category I projects. Any extensions beyond these limits require FEMA approval, and recipients must notify FEMA of approved extensions either through the Grants Portal system or official correspondence. FEMA has authority to grant further extensions if justified by extenuating circumstances,[467] which generally include delays caused by permitting or Environmental and Historic Preservation (EHP) requirements, atypical limitations like narrow construction windows, adverse weather preventing site access, or shortages of materials, equipment, or contractors. However, FEMA does not consider circumstances such as delayed permit requests, lack of funding, administrative changes, or cost documentation compilation as valid reasons for time extensions.

A. Project Schedule

Creating and following a well-structured project schedule is critical for managing projects effectively and ensuring that work is completed within the period of performance or for identifying when a time extension is necessary. Scheduling serves as the backbone of project management, particularly in construction, by systematically planning, organizing, and controlling the allocation of resources, tasks, and activities. An effective schedule improves time management by defining and sequencing work tasks, ensures that resources such as time, budget, and staffing are appropriately allocated, and supports risk management by identifying potential roadblocks and delays early on. It also enables monitoring of project progress, making budgeting more predictable and manageable. Without a clear schedule, projects are more vulnerable to delays and cost overruns.

III. Large Project Quarterly Progress Reports

Funding for PA large projects is based on estimated costs, contracted costs, or a combination of both for an approved scope of work, with grant funds obligated accordingly. Since actual costs become clear only upon project completion, they often vary from initial estimates. To ensure responsible management of public funds, regular reviews, and timely identification of any changes in project costs are essential.

The large project Quarterly Progress Report (QPR) is a tool for tracking project expenditures relative to completion percentage, comparing completed work costs against obligated funding, monitoring the drawdown of funds by recipients, and assessing whether a project is underfunded or overfunded. The QPR also includes the status of projects pending final federal payment and highlights any issues that could lead to noncompliance with grant conditions. Quarterly reporting is not required for small projects.

FEMA requires recipients to report on the status of all open large projects each quarter.[468] Subrecipients and recipients must meet specific reporting requirements outlined in Table 33. Required Documentation and Information for Quarterly Progress Reports. Recipients must submit QPRs to FEMA within 30 days of each fiscal quarter's end. The Regional Administrator and recipient negotiate the date for submission of the first report.[469]

[467] 44 C.F.R. § 206.204(d).
[468] 44 Code of Federal Regulations (C.F.R.) § 206.204(f).
[469] 44 C.F.R. § 206.204 Project performance.

Table 32. Deadlines for Submitting Quarterly Progress Reports

Quarter	Dates	Report Due Date
1	October 1 – December 31	January 30
2	January 1 – March 31	April 30
3	April 1 – June 30	July 30
4	July 1 – September 30	October 30

Table 33. Required Documentation and Information for Quarterly Progress Reports

Responsible Point of Contact	Project Type	Required Documentation
Subrecipient	Large Projects with an Incomplete Scope of Work (Work is Still In-Progress)	▪ A brief description of known problems or circumstances that are expected to cause a deviation from the approved scope of work, cost, delay project completion or delay project closeout; ▪ Status of the project (either construction phase or percent complete); ▪ Whether the work is complete (per definition under Work Completion Deadlines in this chapter); ▪ Project period of performance end date; ▪ Projected completion date per definition under Work Completion Deadlines in this chapter); and, ▪ Status of time extension, if applicable.
Subrecipient	Large Projects with Complete Scope of Work (Work is Completed)	▪ Date work was completed; and, ▪ Entity responsible for the action in the closeout process (FEMA, recipient, subrecipient).
Recipient	Large Projects with Complete Scope of Work (Work is Completed)	▪ Total amount disbursed to the subrecipient; ▪ Whether final payment was made; ▪ Whether time extensions were approved; and, ▪ Latest approved work completion deadline.

IV. Financial Status Reports

Recipients submit the *Federal Financial Report* (SF-425) quarterly to the respective FEMA Regional Office.[470] The reports provide the status of funds for the prime award, the recipient's expenditure drawdowns, and whether the recipient is meeting its cost-share requirements.

[470] 2 C.F.R. § 200.328.

V. Federal Funding Accountability and Transparency Act

The Federal Funding Accountability and Transparency Act (FFATA) requires that FEMA manage and administer awards in a manner so as to ensure that federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, federal law, and public policy requirements. These requirements include, but are not limited to those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination. FEMA must communicate to recipients all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or by reference in the terms and conditions of the award.[471]

Recipients are responsible for complying with all requirements of the award. For all federal awards, this includes the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Parts 25 and 170.[472]

FFATA requires recipients to register in the FFATA Subaward Reporting System[473] and report on all awards and subawards equal to or greater than $30,000.

VI. Audits

Recipients and subrecipients are subject to federal and non-federal audits. Records are subject to audit by state or territorial government auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector General (OIG), and the U.S. Government Accountability Office (GAO) or any of their authorized representatives.[474] FEMA may adjust project funding due to audit findings.

A. Single Audits

A recipient or subrecipient that expends $1 million or more in federal funds during its fiscal year must perform a single or program-specific audit.[475]

B. Government Accountability Office

The Government Accountability Office (GAO) is the investigatory arm of Congress and is under the direction of the Comptroller General of the United States. GAO is an independent, nonpartisan agency that investigates how the federal government spends taxpayer dollars. Its mission is to help improve the performance and accountability of the federal government. Although the GAO usually audits FEMA programs, it has authority to audit any project.

C. Office of the Inspector General

The Department of Homeland Security's Office of Inspector General (OIG) conducts independent audits and investigations on FEMA programs, operations, activities, and functions; how recipients and subrecipients

[471] 2 C.F.R. § 200.300(a).
[472] 2 C.F.R. § 200.300(b).
[473] For more information, refer to: Federal Funding Accountability and Transparency Act Subaward Reporting System | fsrs.gov.
[474] 2 C.F.R. § 200.337.
[475] 2 C.F.R. § 200.501.

expend federal funds; and oversight of non-federal audits such as single audits. The OIG evaluates activities to identify, deter, and address fraud, waste, and abuse. The OIG has authority to audit any project.

1. REPORT FRAUD

FEMA award recipients and subrecipients play a critical role in helping to identify fraud and are highly encouraged to report suspicious activities at any time during the procurement process by contacting the FEMA Fraud and Investigation Division,[476] the DHS OIG Hotline,[477] FEMA Suspension and Debarment [478].and the U.S. Department Justice National Center for Disaster Fraud.[479]

D. FEMA Office of Civil Rights

FEMA's Office of Civil Rights (OCR) has the authority to conduct investigations and compliance reviews based on discrimination. OCR has the authority to request and review documentation related to programs receiving FEMA financial assistance and FEMA programs and has monitoring and oversight requirements in connection with recipient compliance with federal civil rights laws. OCR conducts investigations on complaints received from the public alleging civil rights violations from FEMA, FEMA programs, and recipients of FEMA financial assistance.[480] OCR may conduct a full investigation and render a decision on the complaint, or they may refer the complaint to another agency. OCR conducts compliance reviews of FEMA programs and recipients of FEMA financial assistance to ensure compliance with civil rights before, during, and after disasters. Prior to conducting a compliance review, OCR seeks to provide technical assistance related to civil rights, as its mission is to fully integrate civil rights into all aspects of FEMA's culture and work.

E. Recovery of Improper Payments

FEMA conducts audit assessments on drawdowns to recover payments identified as improper in accordance with the Payment Integrity Information Act.[481] In 2019, FEMA implemented the Validate as You Go (VAYGo) review process for several major disaster declarations in an effort to comply with improper payment reporting requirements and to reduce project closeout documentation requirements for recipients with proven effective internal control processes. In December 2020, FEMA expanded VAYGo to all PA and Fire Management Assistance Grant (FMAG) disasters. The goal of VAYGo is to improve internal control processes by consistently assessing payment error rates to identify potential payment integrity issues. FEMA's "Validate as You Go (VAYGo) Guide"[482] provides guidance on the implementation and delivery of the FEMA VAYGo grant payment review process.

[476] The FEMA Fraud and Investigation Division can be reached at: FEMA-OCSO-Tipline@fema.dhs.gov or 1-866-223-0814.
[477] The DHS OIG Hotline can be reached at: DHS OIG Hotline Complaint Form or 1-800-323-8603.
[478] FEMA Suspension and Debarment can be reached at: femas&d@fema.dhs.gov.
[479] The U.S. Department Justice National Center for Disaster Fraud can be reached at: National Center for Disaster Fraud or 1-866-223-0814.
[480] Information on filing a complaint with the Office of Civil Rights can be found at: Filing a Complaint | fema.gov.
[481] For more information, refer to: Payment Integrity Information Act of 2019 | congress.gov.
[482] For more information, refer to: Validate As You Go Guide | fema.gov.

Chapter 12: Final Reconciliation and Closeout

I. Project Reconciliation and Closeout

FEMA requires timely and complete project-level information from a recipient as work is completed to facilitate efficient and effective closeout of the recipient's prime award. This section defines requirements for project-level closeout. To initiate project-level closeout, subrecipients must inform the recipient that their project is complete and the date the work was completed. The "Public Assistance Program Delivery Guide"[483] provides an overview of these process steps.

A. Small Projects

Under simplified procedures,[484] FEMA bases awards for small projects on cost estimates rather than final accounting. This approach streamlines project closeout and expedites FEMA's processing of PA grant funding by reducing the administrative burden typically associated with large projects. Simplified procedures save both time and resources on small projects, while still providing financial oversight for the bulk of PA funding. Recipients without statutory audit requirements also benefit from these efficiencies in managing PA grants.

For small projects, FEMA obligates funds based on available information when the project is documented, whether based on estimated, actual costs, or a combination. To close these projects, recipients must submit a small project completion certification, confirming that:

- The subrecipient completed the approved scopes of work (SOW) for all small projects in compliance with the FEMA-state/territory/tribe agreement, and
- The recipient has issued all payments according to this agreement.

Once a small project is obligated, FEMA does not adjust the funding amount unless specific conditions are met, such as:

- The subrecipient did not complete the approved scope of work;
- FEMA approves a change in SOW, including additional hazard mitigation;
- The subrecipient received funding not previously deducted to prevent a duplication of benefits (e.g., when actual insurance proceeds exceed the estimated amount deducted);
- When actual insurance proceeds are less than the estimated amount deducted;
- Errors or omissions;
- Hidden damage;
- Non-compliance with applicable laws, regulations, and executive orders; or

[483] For more information, refer to: *Public Assistance Program Delivery Guide*.
[484] Congress enacted Section 422 of the Stafford Act to enhance the administrative efficiency of the PA Program. This section authorizes simplified procedures for projects that fall under the large project threshold. For more information, refer to Simplified Procedures in Chapter 2.

- Fraud, waste, or abuse.

In these cases, FEMA only adjusts the specific cost items affected.

1. NET SMALL PROJECT OVERRUN APPEAL REQUEST

Subrecipients can request additional funding if the combined actual cost of all their small projects exceeds the total amount obligated for all their small projects. FEMA refers to this as a net small project overrun (NSPO) appeal request. Subrecipients must submit a request through the appeal process, described under Appeal Rights and Requirements in Chapter 2, within 60 days of the latest work completion date of all its small projects.[485] If all of a subrecipient's small projects have not been obligated at that time, then the subrecipient has 60 days from the date FEMA obligated its last small project to submit an appeal. The appeal must include actual cost documentation for all approved small projects.[486] For more information regarding the NSPO appeal, see Appeal Rights and Requirements in Chapter 2.

2. SMALL PROJECT CLOSEOUT

If a subrecipient is not requesting an NSPO, the subrecipient must submit a certification of completion for all small projects to the recipient within 90 days of the last small project completion date, or the last approved completion deadline for all of its small projects, whichever is sooner. If work on the last small project was completed prior to obligation, the 90-day timeline begins on the date of obligation.

A recipient must submit certification of completion of its own small projects within 90 days of the latest small project work completion date, or the approved deadline of its last small project, whichever is sooner. If work on the last small project was completed prior to obligation, the 90-day deadline begins on the date of obligation.

B. Large Projects

With exception of capped projects, the final eligible amount for a large project is the actual documented cost incurred to complete the approved scope of work.[487] Subrecipients must provide documentation to support the actual costs within 90 days of work completion.[488] If work on the project was completed prior to obligation, the 90-day timeline begins on the date of obligation. Recipients must submit a large project expenditure report and completion certification and must certify that:[489]

- All incurred costs are associated with the approved scope of work;
- The subrecipient completed all work in compliance with the FEMA-state/territory/tribe agreement and any relevant policies or regulations; and,
- It made all payments in accordance with 2 C.F.R. § 200.305.

A recipient must submit its certification of a subrecipient's completion of each large project with the final claim for PA funding for the project and supporting documentation to FEMA within 180 days of the work

[485] 44 C.F.R. § 206.204(e)(2).
[486] 44 C.F.R. § 206.204(e).
[487] 44 C.F.R. § 206.205(b).
[488] 44 C.F.R. § 206.205(b)(1).
[489] 44 C.F.R. § 206.205(b)(1).

completion date or the project completion deadline, whichever occurs first. If work on the project was completed prior to obligation, the 180-day deadline begins on the date of obligation. The recipient must submit its certification for each of its own large projects within 180 days of the work completion date or the project completion deadline, whichever occurs first. If work on a large project is complete prior to obligation, a recipient's certification and final payment of claim is due within 180-days from the date of obligation.

At a minimum, large project closeout packages must include all applicable documentation to support the work and costs including:

Table 34. Required Documentation and Information to Support a Large Project Closeout Request

Required Documentation and Information to Support a Large Project Closeout Request

▪ Final inspection report;
▪ Summary of scope of work performed;
▪ Summary of expenditures;
▪ Project-related documents to support claimed costs (invoices, timesheets, work orders, trip tickets, etc.), if not previously provided, including:
  ○ Force account labor;
  ○ Force account equipment;
  ○ Materials and supplies; and,
  ○ Contracted work.
▪ Procurement documentation, if applicable (e.g., advertisements, bid tabulations, evaluation);
▪ Mutual aid agreements;
▪ Insurance documentation (final statement of loss);
▪ Project-related correspondence with regulatory agencies;
▪ Change orders;
▪ Personnel pay policies;
▪ All codes and standards incorporated into the scope of work;
▪ Documentation to substantiate compliance with all terms and conditions of the award (e.g., Environmental and Historic Preservation (EHP) compliance documentation, impartial delivery to vulnerable communities' requirements, and any funding that may duplicate benefits); and,
▪ Photos of completed project, required for categories C-G.

Prior to closing large projects, FEMA:

- Verifies there are no outstanding appeals, audits, or arbitration cases;
- Reviews invoices and other documentation related to the work performed to validate it was consistent with the approved SOW, including completion of any approved PA hazard mitigation (not required at closeout if project was obligated at 100 percent complete based on actual costs);
- Determines whether the subrecipient completed the work within the approved deadline (FEMA limits reimbursement to costs incurred within the deadline);
- Ensures no duplication of funding exists (e.g., with insurance or costs in any other related projects);

- Validates compliance with cost principles, including, but not limited to:
  - Equipment and property disposition;
  - Procurement and contracting (not required at closeout if project was obligated at 100 percent complete based on actual costs); and,
  - Reasonableness of costs.
- Validates compliance with all terms and conditions of the award, including, but not limited to:
  - Code and standard requirements;
  - EHP requirements;
  - Civil rights requirements; and,
  - Insurance obtain and maintain requirements.

If the work is 100 percent complete at the time the project is obligated, the following compliance reviews do not need to be repeated during closeout:

- Determining whether the subrecipient completed the work within the approved deadline;
- Procurement and contracting;
- Reasonableness of costs;
- Code and standard requirements; and,
- EHP requirements.

If FEMA obligated the project at 100 percent complete based on actual costs, the reviews were completed prior to obligation and therefore the reviews do not need to be repeated at closeout. If the project was not 100 percent complete at obligation, FEMA reviews and verifies the accuracy of the actual costs and evaluates and reconciles any cost overruns or underruns. FEMA uses the Public Assistance Sampling Procedure to review documentation supporting claims at closeout. For projects with funding changes, FEMA prepares a project amendment and obligates additional funds or reduces funding based on actual costs to complete the eligible SOW.[490]

FEMA does not re-evaluate the cost-effectiveness of PA mitigation based on the final actual costs of the project and approved PA mitigation measures. If the subrecipient did not complete any of the mitigation SOW, FEMA designates the project as an improved project, reviews the project for compliance, and depending on the evaluation result, either deobligates or caps funding for only the repair/restoration SOW.[491]

For capped projects, subrecipients must provide documentation to support that they used the funds in accordance with the eligibility criteria described under Flexible Restoration (Capped Projects) in Chapter 8.

[490] 44 C.F.R. § 206.205(b)(2).
[491] 44 C.F.R. § 206.203(d)(1).

If a subrecipient did not comply with any of the conditions of the grant, FEMA may deobligate either all or a portion of the funding. Once FEMA completes its review and funding adjustments, FEMA closes the project and notifies the recipient in writing.

C. Subrecipients

Recipients request that FEMA close each subrecipient once all of its respective projects have been completed and closed for the disaster. Recipients may either request this in the same submittal as a subrecipient's last project closeout request or may submit a separate request. The request should include a project completion certification report listing all of the subrecipient's projects.

If all of a subrecipient's projects are closed and there are no outstanding audits, FEMA closes the subrecipient and notifies the recipient in writing.

II. Stafford Act Section 705

Stafford Act Section 705 imposes a 3-year limit on FEMA's authority to recover payments made to state, local, Tribal Nation, and territorial (SLTT) government recipients and subrecipients unless there is evidence of fraud.[492] FEMA must provide notice of intent to recover payments within 3 years from the date that the recipient submitted the certification of project completion to FEMA. Section 705 does not apply to private nonprofits (PNPs). Section 705 also prohibits FEMA from recovering payments for a project within the 3-year statute of limitations if the recipient or subrecipient meet certain criteria.[493] To ensure consistent application of the provisions contained in Section 705, FEMA issued the *Stafford Act Section 705, Disaster Grant Closeout Procedures* policy,[494] which describes the limitations and requirements in detail.

III. Public Assistance Award Closeout

A recipient must submit its final *Federal Financial Report* (SF-425) with a written request to close the PA award. FEMA and the recipient certify that all work was completed, all eligible costs have been reimbursed and financially reconciled. The PA award is programmatically closed when FEMA ensures that all PA projects awarded for the incident met statutory and regulatory requirements. For FEMA to close the PA award, the following conditions must be met:

- FEMA has issued final determinations on all appeals;
- FEMA has obligated all eligible PA funding;
- All recipient and subrecipient projects are closed;
- The recipient has passed through all obligated funds appropriately and submitted its final expenditure report to FEMA;
- FEMA has adjusted the funding level for the program, as appropriate; and,
- Both FEMA and the recipient have completed all administrative actions related to the PA Program.

[492] Stafford Act § 705(a)(1)(2); 42 U.S.C. § 5205.
[493] Stafford Act § 705(c)(1)(2)(3); 42 U.S.C. § 5205.
[494] For more information, refer to: Stafford Act Section 705, Disaster Grant Closeout Procedures (FP 205-081-2 Version 2) | fema.gov.

Recipients must liquidate all obligations within 120 days of the end of the prime award period of performance. FEMA extends the deadline if the recipient submits a written time extension and provides a reasonable justification for the delay.[495]



Terminology

Final expenditure report - The report a recipient submits to FEMA for all of a subrecipient's projects, certifying that the grant terms and conditions have been met and project costs are reconciled.

IV. Documentation Retention Requirements

Subrecipients must maintain all source documentation for each project[496] for 3 years after the date of transmission of the final expenditure report for project completion as certified by the recipient.[497] A recipient must keep all financial and program documentation for 3 years after the date it submits the final SF-425. There are several exceptions to this timeframe that may require longer retention periods, including exceptions relating to real property and equipment disposition, audits, and litigation.[498] Additionally, SLTT government laws may require longer retention periods.

[495] 44 C.F.R. § 200.344(c).
[496] 2 C.F.R. § 200.302.
[497] For more information, refer to: *Public Assistance Policy on Stafford Act Section 705, Disaster Grant Closeout Procedures | fema.gov*.
[498] 2 C.F.R. § 200.334.

Appendix A. References and Resources

I. Public Assistance Program References

- Assistance for Governments and Private Non-Profits After a Disaster
- Archived Policy Documents
- Archived Publications
- *Building Community Resilience with Nature-Based Solutions*
- *Cost Estimating Format (CEF) for Large Projects Standard Operating Procedure* (FEMA SOP 9570.8)
- *Preliminary Damage Assessment Guide*
- *Debris Estimating Field Guide* (FEMA 329)
- *Direct Reimbursement for Host-State Evacuation and Sheltering Costs* (FEMA SOP 9570.1)
- *Environmental and Historic Preservation Directive* (FEMA Directive 108-1)
- *Environmental and Historic Preservation Instruction* (FEMA Instruction 108-1-1)
- *Environmental and Historic Preservation (EHP) Fact Sheet for Debris Removal Activities*
- Equipment Rates
- Federal Flood Risk Management Standard
- *Infectious Disease Event Fact Sheet* (FP 104-009-001)
- *FEMA Recovery Policy, Public Assistance Management Costs (Interim)* (FP 104-11-2)
- *Field Manual (Procurement Information for FEMA Public Assistance Award Recipients and Subrecipients)*
- *Mission Assignments for ESF #10* (FEMA 9523.8)
- Small Business Administration Loans
- *Recipient-Led Public Assistance Guide*
- *Strategic Funds Management* (FEMA SOP 9570.24)
- *Public Assistance Building Back Better Fact Sheet*
- *Public Assistance Management Costs Interim Policy Fact Sheet*
- *Public Assistance Management Costs Standard Operating Procedures*
- *Public Assistance Policy on Insurance* (FP 206-086-1)
- *Public Assistance Policy, Stafford Act Section 705, Disaster Grant Closeout Procedures* (FP 205-081-2)
- *Public Assistance Recovery of Improper Payments Standard Operating Procedures* (FEMA SOP 9570.16)
- *Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings* (FEMA 352)
- *Safe Rooms for Tornadoes and Hurricanes, Guidance for Community and Residential Safe Rooms* (FEMA P-361)

II. Public Assistance Forms and Templates

- Public Assistance FEMA Forms (FF)
- *Application for Federal Assistance and Assurances* (SF-424)
- *Federal Financial Report* (SF-425)

III. Statutes

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act)
- Americans with Disabilities Act (ADA)

IV. Code of Federal Regulations

- 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit
- 7 C.F.R. § 1730.25, Corrective action (Rural Utilities Service [RUS] borrowers only)
- 15 C.F.R. Part 774, The Commerce Control List
- 22 C.F.R. Part 121, The United States Munitions List
- 40 C.F.R. Part 261, Identification and Listing of Hazardous Waste
- 40 C.F.R. Parts 1500–1508, NEPA Regulations
- 44 C.F.R. Emergency Management and Assistance
- 44 C.F.R. Part 9, Floodplain Management and Protection of Wetlands
- 44 C.F.R. Part 201, Mitigation Planning
- 44 C.F.R. Part 204, Fire Management Assistance Grant (FMAG) Program
- 44 C.F.R. Part 206, Federal Disaster Assistance
- 48 C.F.R. Subpart 2.1, Federal Acquisition Regulation

V. Environmental Protection Laws

- Clean Air Act (CAA)
- Clean Water Act (CWA)
- Coastal Barrier Resources Act (CBRA)
- John H. Chafee Coastal Barrier Resources System (CBRS)
- Coastal Zone Management Act (CZMA)
- Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
- Endangered Species Act (ESA)
- Farmland Protection Policy Act (FPPA)
- Fish and Wildlife Coordination Act
- Magnuson-Stevens Fishery Conservation and Management Act

- Migratory Bird Treaty Act
- National Environmental Policy Act (NEPA)
- Resource Conservation and Recovery Act (RCRA)
- Wild and Scenic Rivers Act

VI. Executive Orders

- EO 11988, Floodplain Management
- EO 11990, Protection of Wetlands
- EO 12898, Environmental Justice
- EO 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input
- EO 13717, Establishing a Federal Earthquake Risk Management Standard
- EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- EO 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
- EO 14008, Tackling the Climate Crisis at Home and Abroad
- EO 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All

VII. Historic Preservation Laws and Tools

- Advisory Council on Historic Preservation
- American Institute for Conservation Code of Ethics and Guidelines for Practice
- Heritage Emergency National Task Force (HENTF)
- National Historic Preservation Act (NHPA)
- National Register of Historic Places

VIII. Federal Emergency Management Agency References

- FEMA
- *FEMA Stafford Act Declaration Process Fact Sheet*
- Fire Management Assistance Grants (FMAG) Program
- *FMAG Program Guide* (FEMA P-954)
- Federal Insurance and Mitigation Administration (FIMA)
  - National Flood Insurance Program (NFIP)
  - Hazard Mitigation Assistance (HMA) Programs
  - HMA Guidance
  - Hazard Mitigation Grant Program (HMGP)

    - State Hazard Mitigation Officer
- Individual Assistance (IA) Programs
    - Individuals and Households Program (IHP)
- National Disaster Recovery Framework (NDRF)
- National Response Framework (NRF)
- Tribal Affairs

IX. Other Federal Agencies

- Bureau of Indian Affairs (BIA)
- Federal Highway Administration (FHWA)
- FHWA Emergency Relief Program (ERP)
- National Oceanic and Atmospheric Administration (NOAA)
- National Marine Fisheries Service (NMFS)
- National Centers for Environmental Information (NCEI), formerly known as the National Climatic Data Center (NCDC)
- Natural Resources Conservation Service (NRCS)
- NRCS Emergency Watershed Protection Program (EWP)
- National Weather Service (NWS)
- NWS Cooperative Network Stations
- U.S. Army Corps of Engineers (USACE)
- USACE Rehabilitation and Inspection Program (RIP)
- U.S. Coast Guard (USCG)
- U.S. Department of Agriculture (USDA)
- Farm Service Agency
- U.S. Department of Health and Human Services (HHS)
- Centers for Disease Control and Prevention (CDC)
- U.S. Department of Homeland Security (DHS)
- DHS Office of Inspector General (OIG)
- U.S. Department of Housing and Urban Development (HUD)
- Community Development Block Grant Program (CDBG)
- U.S. Department of Labor
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (USFWS)
- U.S. Government Accountability Office (GAO)

Appendix B. Acronyms

ABA	Architectural Barriers Act
ACSR	Aluminum Conductor Steel Reinforced
ADA	Americans with Disabilities Act
ARC	American Red Cross
BCA	Benefit-Cost Analysis
BFE	Base Flood Elevation
BIA	Bureau of Indian Affairs
CAA	Clean Air Act
CATEX	Categorical Exclusion
CBCA	Civilian Board of Contract Appeals
CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resource System
CDBG	Community Development Block Grant
CDC	Centers for Disease Control and Prevention
CEF	Cost Estimating Format
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
C.F.R.	Code of Federal Regulations
CISA	Climate-Informed Science Approach
CMS	Consumable Medical Supplies
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DDD	Damage Description and Dimensions
DFA	Direct Federal Assistance
DM	Determination Memorandum
DME	Durable Medical Equipment
DOE	Department of Energy
DOJ	Department of Justice
DRRA	Disaster Recovery Reform Act
DSA	Data Sharing Addendum
EHP	Environmental and Historic Preservation
EIS	Environmental Impact Statement
EMAC	Emergency Management Assistance Compact

EO	Executive Order
EOC	Emergency Operations Center
EPA	U.S. Environmental Protection Agency
ER	Emergency Relief (Program)
ERFO	Emergency Relief for Federally Owned Roads (Program)
ESA	Endangered Species Act
ESF	Emergency Support Function
EWP	Emergency Watershed Protection Program
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FFATA	Federal Funding Accountability and Transparency Act
FFRMS	Federal Flood Risk Management Standard
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMAG	Fire Management Assistance Grant
FSA	FEMA-State Agreement
FTA	FEMA-Tribal Nation Agreement
GAO	Government Accountability Office
GAR	Governor Authorized Representative
GPS	Global Positioning System
HEPA	High-Efficiency Particulate Air
HENTF	Heritage Emergency National Task Force
HHS	U.S. Department of Health and Human Services
HMA	Hazard Mitigation Assistance
HMGP	Hazard Mitigation Grant Program
HMP	Hazard Mitigation Proposal
HOW	Houses of Worship
HUD	U.S. Department of Housing and Urban Development
HVAC	Heating, Ventilation, and Air Conditioning
ISAA	Information Sharing Access Agreement
IA	Individual Assistance
IEBC	International Existing Building Code
IHP	Individuals and Households Program
LOC	Letter of Commitment

NCEI	National Centers for Environmental Information
NCR	Natural & Cultural Resources
NCS	Non-Congregate Sheltering
NDRF	National Disaster Recovery Framework
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NGO	Non-governmental Organization
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRCS	Natural Resources Conservation Service
NRF	National Response Framework
NWS	National Weather Service
NWP	Nationwide Permits
OCR	Office of Civil Rights
OFA	Other Federal Agencies
OIG	U.S. Department of Homeland Security Office of Inspector General
O&M	Obtain and Maintain
PA	Public Assistance
PAPPG	Public Assistance Program and Policy Guide
PDA	Preliminary Damage Assessment
PDG	Program Delivery Guide
PHA	Public Housing Agency
PNP	Private Nonprofit
PDMG	Program Delivery Manager
PII	Personally Identifiable Information
PL	Public Law
POP	Period of Performance
PPDR	Private Property Debris Removal
PPE	Personal Protective Equipment
RA	Regional Administrator
REC	Record of Environmental Consideration
RCRA	Resource Conservation and Recovery Act
RHA	Rivers and Harbors Act
RIP	Rehabilitation and Inspection Program

RFI	Request for Information
RFP	Request for Proposal
ROW	Right-of-Way
RPA	Request for Public Assistance
RSF	Recovery Support Function
RUS	Rural Utilities Service
RV	Recreational Vehicle
SBA	U.S. Small Business Administration
SCRI	Smithsonian Cultural Rescue Initiative
SF	Standard Form
SFHA	Special Flood Hazard Area
SHPO	State Historic Preservation Officer
SLTT	State, Local, Tribal Nation, and Territorial
SOP	Standard Operating Procedure
SOW	Scope of Work
STATEX	Statutory Exclusion
SSD	Substantial Structural Damage
SWL	Stillwater Level
STT	State, Tribal Nation, and Territory
T&E	Time-and-Equipment
T&M	Time-and-Materials
TAR	Tribal Authorized Representative
THPO	Tribal Historic Preservation Officer
TRAQ	Tree Risk Assessment Qualification
TSA	Transitional Sheltering Assistance
TWL	Total Water Level
UFR	Unified Federal Review
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USCG	U.S. Coast Guard
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VAYGo	Validate as You Go
WFPO	Watershed and Flood Prevention Operations
WOTUS	Waters of the United States

WUI	Wildland-Urban Interface

Appendix C. Terms and Definitions

Alternate project - A project where an applicant determines that the public welfare is not best served by restoring the function of the damaged facility and request FEMA's approval to apply PA funding toward a different facility (or facilities).

Animal - Any living or dead member of the animal kingdom, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate or any part thereof.

Applicant - A non-federal entity submitting an application for assistance under a recipient's federal award.

Assistance animal - An animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates identified symptoms or effects of a person's disability. Although dogs are the most common type of assistance animal, other animals can also be assistance animals.

Award (federal) - The financial assistance that a non-federal entity receives either directly from a federal awarding agency or indirectly from a pass-through entity; or the cost-reimbursement contract under the Federal Acquisition Regulation that a non-federal entity receives directly from a federal awarding agency or indirectly from a pass-through entity.

Budgeted (labor) - Employee labor costs an applicant budgets for and incurs regardless of a disaster occurring.

Coastal zone - The coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of coastal states, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. This includes areas in Great Lakes waters per 16 U.S.C. § 1453.

Commercial property - Any property, structure, or portion of a structure, used for the purpose of conducting commerce or as a rental unit (e.g., industrial parks, golf courses, cemeteries, apartments, condominiums, or trailer parks).

Consensus-based codes, specifications, and standards – National or international voluntary codes, specifications and standards that incorporate the latest hazard-resistant designs.

Conservation - The preservation of a collection or object for the future. Conservation activities include examination, documentation, treatment, and preventive care, supported by research (e.g., scholarly and technological, x-rays, paint sampling) and education.

Critical action - An action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 0.2 percent annual chance floodplain (also referred to as the critical action floodplain).

Current fair market value - The value of equipment and supplies determined by selling them in a competitive market or by researching advertised prices for similar items on the used market.

Duplication of benefits - Funding received from two sources for the same item of work.

Durable medical equipment - Reusable medical equipment including, but not limited to: oxygen equipment, wheelchairs, walkers, hospital beds, and crutches.

Educational institution - Any elementary school as defined by section 801(c) of the Elementary and Secondary Education Act of 1965; any secondary school as defined by section 801(h) of the Elementary and Secondary Education Act of 1965; or any institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

Emergency - Any occasion or instance for which the president determines federal assistance is needed to supplement SLTT efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Emergency protective measure - An action taken by a community before, during, and after an incident to save lives, protect public health and safety, and prevent damage to improved public and private property.

Emergency work - Work that must be done immediately to save lives, protect improved property, protect public health and safety, or avert or lessen the threat of a major disaster.

Equipment - Tangible personal property, including information technology systems, having a useful life of more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or $10,000.

Exigency - The existence of a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to an applicant.

Facility - Any publicly or privately-owned building, works, system or equipment—built or manufactured—or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

Federal agency - Any department, independent establishment, government corporation, or other agency of the executive branch of the federal government, including the United States Postal Service, but not including the American National Red Cross.

Federal share - The portion of the total project costs that are paid by federal funds.

Flood control work - A structure such as a levee, flood wall, flood control channel, or water control structure that was designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water level.

Flood fighting - An activity or measure (e.g., sandbagging, buttressing) intended to prevent or stop flooding, at levels above flood stage, or to prevent structural failure.

Force account - An applicant's own labor forces and equipment.

Hazard - An emergency or disaster resulting from a natural disaster or an accidental or man-caused event.

Hazard mitigation - Any cost-effective measure that will reduce the potential for damage to a facility from a disaster event.

Hazard-resistant – Designs which take into account the probability of occurrence of hazards, within a reasonable recurrence interval, to decrease vulnerabilities.

Immediate threat - The threat of additional damage or destruction from an event that can reasonably be expected to occur within 5 years.

Improved project - A project that restores the pre-disaster function of a facility and incorporates improvements or changes to the pre-disaster design.

Improved property - A structure, facility, or item of equipment that was built, constructed, or manufactured. Land used for agricultural purposes is not improved property.

Incident - Any condition which meets the definition of major disaster or emergency which causes damage or hardship that may result in a presidential declaration of a major disaster or an emergency.

Incident period - The time span during which the disaster-causing incident occurs.

Integral ground - The ground necessary to physically support a facility. Integral ground may be natural or improved ground upon which an eligible facility is located and that is essential to support the structural integrity and utility of the facility.

Large project - A project for which the final obligated (federal and non-federal) amount is equal to or *greater* than the annually adjusted cost threshold for small project grants.

Local government - A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments(regardless of whether the council of governments is incorporated as a nonprofit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government; an Indian tribe or authorized tribal organization, or Alaska Native village or organization that does not meet the definition of Indian Tribal Nation; or a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a state or political subdivision of a state.

Major disaster - Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, for which the president determines causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended to supplement the efforts

and available resources of SLTT governments and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

Management cost - Any indirect cost, any direct administrative cost, and any other administrative expense associated with a specific project under a major disaster or emergency.

Museum - A facility that preserves and exhibits a documented collection of artistic, historic, scientific, or other objects.

Mutual aid agreement - A written or oral agreement between and among agencies/organizations and/or jurisdictions that provides a mechanism to quickly obtain assistance in the form of personnel, equipment, materials, and other associated services. The primary objective is to facilitate the rapid, short-term deployment of support prior to, during, and/or after an incident.

Natural disaster - Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

Natural features - Characteristics of a particular environment (e.g., barrier islands, sand dunes, wetlands) that are created by physical, geological, biological, and chemical processes and exist in dynamic equilibrium. Natural features are self-sustaining parts of the landscape that require little or no maintenance to continue providing their ecosystem services (functions) (44 CFR § 9.4).

Nature-based solutions – Nature-based solutions are sustainable planning, design, environmental management, and engineering practices that simultaneously provide benefits for people and the environment to build resilient communities and mitigate the impact of natural hazards. FEMA uses the term "nature-based solutions" to refer to an umbrella of strategies, including nature or nature-based features. Other agencies may also use the term "engineering with nature" or "nature-based approaches".

Non-commercial property - A property, structure, or portion of a structure, used by the property owner as their primary residence, such as a house or condominium unit in which the owner resides.

Non-federal entity - An institution of higher education, nonprofit organization, local government, Indian tribe, or state that carries out a federal award as a recipient or subrecipient.

Orphan road – A road that an applicant or public entity does not have the legal responsibility to maintain.

Overtime (labor) - Time worked beyond an employee's scheduled working hours, as set by an applicant's pre-disaster written labor or pay policy.

Period of performance - The time during which the non-federal entity may incur new obligations to carry out the work authorized under the federal award.

Permanent work - Restorative work that must be performed through repairs or replacement to restore an eligible facility on the basis of its pre-disaster design and current applicable codes and standards.

Pet (household) - A domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in a commercial carrier, and can be housed in a temporary facility. Examples are dogs, cats, birds, rabbits, rodents, and turtles. Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing purposes.

Pre-disaster - In effect prior to the incident start date identified in the approved presidential disaster declaration.

Pre-disaster design - The size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity at which the facility was being used at the time the major disaster occurred if different from the most recent designed capacity.

Pre-disaster function - The function the facility was performing immediately prior to the disaster.

Private nonprofit organization (PNP) - Any nongovernmental agency or entity that currently has an effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under Sections 501(c), (d), or (e) of the Internal Revenue Code, or satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law.

Private roads - Roads that are not owned or operated by or otherwise the legal responsibility of a federal or SLTT entity (including orphan roads, roads in gated communities, homeowners' association roads, etc.).

PNP custodial care facility - A building, structure, or system, including those for essential administration and support, that is used to provide institutional care for persons who require close supervision and some physical constraints on their daily activities for their self-protection, but do not require day-to-day medical care.

PNP educational facility - Classrooms plus related supplies, equipment, machinery, and utilities of an educational institution necessary or appropriate for instructional, administrative, and support purposes.

PNP emergency facility - A building, structure, equipment, or system used to provide emergency services, such as fire protection, ambulance, or rescue, to the general public, including the administrative and support facilities essential to the operation of such emergency facilities, even if not contiguous.

PNP medical facility - A hospital, outpatient facility, rehabilitation facility, or facility for long-term care as such terms are defined in Section 645 of the Public Health Service Act (42 U.S.C. § 291o) and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operation of such medical facilities even if not contiguous.

Project - A logical grouping of work required as a result of the declared major disaster or emergency.

Public facility - Any of the following facilities owned by an SLTT government: any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-federal aid, street, road, or highway; and any other public building, structure, or system, including those used for educational, recreational, or cultural purposes; or any park.

Real property - Land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

Recipient - A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program.

Reasonable cost - A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In other words, a reasonable cost is a cost that is both fair and equitable for the type of work being performed.

Rehabilitation facility - A facility that primarily provides diagnosis and treatment for rehabilitation of injuries, disabilities, or illness. (Consistent with the definition of "comprehensive outpatient rehabilitation facility" in 42 U.S.C. § 1395x(cc)(2)).

Regulatory floodway - The area regulated by federal, state or local requirements to provide for the discharge of the base flood so the cumulative increase rise in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) above the base flood elevation.

Request for public assistance - The form a public entity or PNP organization uses to apply for assistance under the Public Assistance Program.

Retreat - Establishments that promote health and wellbeing by providing services for the preservation and maintenance of physical, mental, and emotional health.

Resilience - The ability to prepare for threats and hazards, adapt to changing conditions and withstand and recover rapidly from disruptions.

Scope of work - A description of the eligible work necessary to be done immediately to address an immediate threat or to restore a facility to its pre-disaster design, function, and capacity and to current applicable standards, documented in the project and reflecting the damage description and dimensions. A scope of work may also be documented for an alternate or improved project or with a PA Hazard Mitigation Proposal.

Service animal - A dog that is individually trained to do work or perform tasks for people with disabilities or access and functional needs. The task(s) performed by the dog must be directly related to the person's disability.

Site - An individual building, structure, or system section. Examples include: an individual building or structure inclusive of its contents and supplies; a beach or park inclusive of equipment and other items within the area that are not structures or buildings, such as benches or playground equipment; a lift or pump station; a dam; and a section of roadway that has damage within a reasonable distance throughout that section.

Small project - A project for which the final obligated (federal and non-federal) amount is less than the annually adjusted cost threshold for small project grants.

Soft costs - Costs that are not considered as direct construction costs, including: architectural costs, engineering costs, project management costs, financing, and legal fees.

Special flood hazard area - The land area subject to inundation during a flood having a 1 percent chance of being equaled or exceeded in a given year (also referred to as the base flood or 100-year flood). Special flood hazard areas are shown on FIRMs published by FEMA.

State - Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Straight-time (labor) - An employee's regular pay rate when working normal hours.

Subaward - An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program.

Subrecipient - A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. It does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Supply - Any tangible personal property other than that meeting the definition of equipment.

Temporary (labor) - A full-time or part-time employee working on a permanent and ongoing basis, as set by an applicant's written labor or pay policy.

Tribal Nation - Any federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, Title 25 of the U.S. Code (U.S.C.) 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Trust land - Land, the title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.

“Trust or restricted interest in land” or “trust or restricted interest in a parcel of land” means an interest in trust land. Collectively referred to as “trust lands.”

Unbudgeted (labor) – The employee labor costs an applicant does not budget for and incurs only as the direct result of a disaster.

Underserved communities - Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.

Wetland - An area that is saturated by water with a frequency sufficient to support or, under normal hydrologic conditions would support, a prevalence of vegetation or aquatic life typically adapted to saturated or seasonally saturated soil conditions (e.g., swamp, fresh and saltwater marsh, bog, fen).

Work completion date - The date the applicant completes all work associated with the approved SOW including meeting all compliance requirements. It does not include invoice payments, warranty periods, or grant management activities (e.g., compiling and submitting documentation, financial reconciliation, requesting payment).

Zoo - Any facility maintained under the care of a Doctor of Veterinary Medicine, in which live animal(s) are kept for public exhibition or education. Aquariums and wildlife or zoological parks may meet this definition.

Appendix D: Environmental and Historic Preservation Compliance

The following laws and Executive Orders (EOs) are commonly encountered federal requirements that were established to help protect the environment and preserve the Nation's historic and archaeological resources. FEMA reviews each PA project to ensure the work complies with applicable federal environmental and historic preservation (EHP) laws, their implementing regulations, and applicable EOs. Compliance with all federal and state, local, Tribal Nation, and territorial (SLTT) laws is a requirement of every FEMA award. SLTT laws, such as hazardous material management laws, vary by location and are not included in this appendix.

FEMA prepares a greensheet at the beginning of each emergency or disaster declaration with specific information relevant to each state and area. These greensheets are FEMA's disaster-specific guidance for applicants about key aspects of EHP reviews. Greensheets briefly discuss the relevant laws and project types that might trigger application of those laws and informs applicants of federal and SLTT laws that must be followed.

I. National Environmental Policy Act

Section 102 of the National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.[499] The White House Council on Environmental Quality publishes its NEPA regulations in Title 40 of the Code of Federal Regulations (C.F.R.) Parts 1500–1508. The U.S. Department of Homeland Security publishes policies and procedures for implementing NEPA and provides specific processes that FEMA must follow before funding a project. The NEPA process ensures consideration of environmental consequences of the project before decisions are made and involves the public.

II. National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA)[500] requires FEMA to consider the effects an undertaking will have on historic properties and provide the Advisory Council on Historic Preservation the opportunity to comment on the effects of the undertaking.[501] Historic properties include buildings, structures, sites, including archaeological resources, objects, and districts included in, or eligible for inclusion in, the National Register of Historic Places.[502] FEMA fulfills its Section 106 responsibilities through consultation with outreach to the State Historic Preservation Office (SHPO), Tribal Historic Preservation

[499] 42 United States Code (U.S.C.) § 4332.
[500] For more information, refer to: National Historic Preservation Act
[501] 16 U.S.C. § 470f.
[502] For more information, refer to: National Register of Historic Places (U.S. National Park Service).

Office (THPO), and other consulting parties, including the subrecipient and recipient, and in many cases FEMA is able to streamline and accelerate the compliance process through utilizing programmatic agreements executed with the SHPO/THPO and the recipient. When FEMA funded undertakings result in adverse effects to historic properties, Section 106 of NHPA requires FEMA to consult with the SHPO/THPO and other consulting parties to resolve the adverse effects through avoidance, minimization, or compensation measures.

III. Endangered Species Act

The Endangered Species Act (ESA) requires federal agencies to use their authorities to conserve federally listed threatened and endangered species (listed species) and critical habitats. FEMA must also consult with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS), also known as NOAA Fisheries, to ensure that proposed projects will not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat for listed species.[503]

IV. Clean Water Act

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants in the waters of the United States (e.g., rivers and streams, lakes and ponds, coastlines, wetlands, estuaries) and sets quality standards for surface waters. The CWA makes it unlawful to discharge any pollutant from a specific source into navigable waters without the appropriate CWA permits from the U.S. Army Corps of Engineers (USACE) or state regulatory agency.[504] In addition, the CWA requires authorization for dredging or filling in waters (including disposal of dredged material). Applicants must ensure applicable permits are acquired prior to beginning work. Documentation of this must be provided to FEMA and may include statements of compliance with nationwide permits (NWPs) or Individual Section 404 permits. Common work activities that may require permits under the Clean Water Act include those that involve the repair of bridges, stream crossings, docks, piers, and/or marinas.

V. Rivers and Harbors Act

The Rivers and Harbors Act requires that authorization be obtained from USACE to construct any structure in or over any navigable water, including authorization for projects involving constructing or modifying bridges and causeways over navigable waters or constructing any dam or dike in a navigable water. Typically, requests for this type of authorization are handled together with requests for authorization of projects under Section 404 of the CWA. Common work activities that may require permits under the Rivers and Harbors Act include those that involve the repair of docks, piers, and/or marinas.

[503] 16 U.S.C. § 1536; Endangered Species Act Section 7.
[504] 33 U.S.C. § 1251 et seq.

VI. Safe Drinking Water Act

The purpose of the Safe Drinking Water Act is to protect public health by ensuring the quality of drinking water. The law authorizes the U.S. Environmental Protection Agency (EPA) to, among other things, set standards for the levels of individual contaminants allowed in drinking water. Additionally, it allows the EPA to designate as aquifers that serve as the sole or principal source of drinking water for a particular area as "sole source aquifers". For any financial assistance project that has the potential to contaminate an aquifer and that is located in the identified review area for a "sole source aquifer", FEMA must consult with EPA before funding the project.

VII. Clean Air Act

The Clean Air Act (CAA) protects the Nation's air through the reduction of smog and atmospheric pollution. Air quality compliance often requires specific measures to be implemented, such as dust abatement, vehicle emissions control, fuel storage, and distribution procedures. There may be additional requirements in "nonattainment areas" (defined as those areas that do not meet national standards for air quality and, therefore, require more rigorous compliance measures).[505] For projects where there is an impact to air quality, applicants should coordinate with and obtain any permits from applicable state or local environmental agencies approving the action.

VIII. Coastal Barrier Resources Act

The Coastal Barrier Resources Act (CBRA)[506] established the John H. Chafee Coastal Barrier Resources System (CBRS), which consists of relatively undeveloped coastal barriers along the Atlantic, Gulf, Great Lakes, and Caribbean coasts. CBRA minimizes adverse impacts to these areas by restricting federal assistance that encourages development within the CBRS. USFWS publishes maps designating these areas.[507] FEMA must consult with USFWS prior to providing PA funding for work within the CBRS.[508]

IX. Migratory Bird Treaty Act

The Migratory Bird Treaty Act makes it unlawful to pursue, hunt, take, capture, kill, or sell migratory birds listed in the statute without a waiver from USFWS.[509] The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs, and nests. FEMA consults with USFWS regarding projects likely to trigger compliance with this Act.

[505] 42 U.S.C. § 7401 et seq.
[506] 16 U.S.C. § 3501 et seq.
[507] 16 U.S.C. §§ 3501 and 3503. The U.S. Fish and Wildlife Service publishes Coastal Barrier Resource System maps at: http://www.fws.gov/.
[508] 16 U.S.C. § 3505.
[509] 16 U.S.C. §§ 703–712.

X. Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act prohibits any person from pursuing, capturing, killing, wounding, disturbing, or otherwise taking bald eagles or golden eagles, including their parts (e.g., feathers), nests, or eggs, unless authorized by a permit from the USFWS. The prohibition on disturbance applies to nests and previously used nest sites when eagles are not present, if, an eagle were to return, such alterations would lead to injury, death, or nest abandonment. FEMA consults with the USFWS regarding projects where impacts to bald or golden eagles may occur.

XI. Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act is the primary law for managing and maintaining sustainable fisheries in waters of the United States. The Magnuson-Stevens Fishery Conservation and Management Act protects essential fish habitat, which includes the waters and substrate necessary to maintain healthy fisheries. FEMA must consult with NMFS when any proposed PA project could have an adverse effect on "essential fish habitat" (defined as any impact that reduces quality or quantity of essential fish habitat).[510]

XII. Marine Mammal Protection Act

The Marine Mammal Protection Act prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters or by U.S. citizens on the high seas. The law prohibits attempts to hunt, capture, kill, or harass any marine mammals. The law authorizes NMFS or USFWS (depending on the species in question) to issue incidental take permits and incidental harassment authorizations. FEMA will consult with the USFWS/NMFS regarding projects where impacts to marine mammals may occur.

XIII. National Marine Sanctuaries Act

The National Marine Sanctuaries Act (NMSA), which is part of the Marine Protection, Research and Sanctuaries Act, authorizes the Secretary of Commerce to designate and manage areas of the marine environment as National Marine Sanctuaries (NMS), which NOAA administers. Activities within each NMS are governed by regulations. A "sanctuary resource" is defined as any living or nonliving resource of a NMS that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary. The National Marine Sanctuaries Act prohibits destroying, injuring, or causing the loss of any "sanctuary resource". A permit is required to conduct any activity within a sanctuary that is otherwise prohibited.

[510] 16 U.S.C. §§ 1801–1884.

XIV. Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) provides for the management of the Nation's coastal resources. The CZMA establishes a voluntary partnership between the federal government and coastal and Great Lakes states. It requires participating states to develop state coastal zone management plans. PA projects located in, or near, established coastal zone management areas must be consistent with the enforceable policies of the state's federally approved coastal zone management program.[511] Before approving a project in a coastal zone management area, FEMA consults with the state agency overseeing the implementation of the CZMA plan to ensure the project is consistent with the program's provisions.

XV. Farmland Protection Policy Act

The Farmland Protection Policy Act is intended to minimize the extent to which federal programs contribute to the conversion of prime or unique farmland, or land of statewide or local importance, to nonagricultural uses and to ensure that federal programs are administered in a manner that, to the extent practicable, will be compatible with state, local, and private programs and policies to protect farmland. The Farmland Protection Policy Act and U.S. Department of Agriculture (USDA) implementing procedures require FEMA to evaluate whether projects it funds irreversibly convert such farmland to nonagricultural uses and to consider alternative actions that could avoid adverse effects. For projects that have the potential to irreversibly convert such farmland, FEMA must consult with the USDA Natural Resources Conservation Service (NRCS) to identify potential impacts to that farmland.[512]

XVI. Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act protects the free-flowing condition of rivers and tributaries that are part of the National Wild and Scenic Rivers System (System) or are under study for inclusion in the System because of their scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. Note: the rivers and tributaries under study are listed on the Nationwide Rivers Inventory or have been formally identified as Study Rivers. If a proposed project is located on a river or tributary covered by the Wild and Scenic Rivers Act whether as a designated river, a Study River, or a river on the Nationwide Rivers Inventory, FEMA must review it for compliance with the Wild and Scenic Rivers Act and consult with the managing agency for the affected designated river or tributary.[513]

XVII.Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) established a framework for federal, state, and local cooperation for controlling the management of hazardous and non-hazardous solid waste. EPA's role is to establish minimum regulatory standards, usually implemented by the states, which can establish their own requirements for solid waste management. RCRA requires the safe disposal of waste materials, promotes

[511] 16 U.S.C. § 1451 et seq.
[512] 7 U.S.C. § 4201 et seq.
[513] 16 U.S.C. § 1271 et seq.

the recycling of waste materials, and encourages cooperation with local agencies.[514] FEMA may require proof of compliant disposition in the form of state debris management permits/forms, landfill permit information, written statements from appropriate authorities, or project specific permits and plans.

XVIII. Comprehensive Environmental Response, Compensation and Liability Act

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as Superfund, authorizes the federal government to respond to releases or threatened releases of hazardous substances into the environment through short-term removals and long-term remedial response actions. Superfund also triggered the development of the National Priorities List, a list of national priorities among the sites with known or threatened releases of hazardous contaminants. The 1986 amendments to CERCLA included the Emergency Planning and Community Right-to-Know Act (EPCRA) which, among other things, creates mechanisms to help local communities plan for chemical emergencies. FEMA will consult with EPA on projects affected by a Superfund site.

XIX. Executive Order 11988, Floodplain Management

EO 11988 requires federal agencies to minimize or avoid, to the extent possible, the long- and short-term adverse impacts associated with occupancy and modifications of floodplain and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. It requires federal agencies to use a systematic decision-making process to evaluate the potential effects of projects located in, or affecting, floodplains; document each step of the process; and involve the public in the decision-making process. This process is designed to:

- Reduce flood loss risks;
- Minimize the impacts of floods on human safety, health, and welfare; and,
- Restore and preserve the natural and beneficial functions of floodplains.

FEMA publishes its implementing regulations for EO 11988 in 44 C.F.R. Part 9, Floodplain Management and Protection of the Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.[515]

XX. Executive Order 11990, Protection of Wetlands

EO 11990 requires federal agencies to avoid to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. To meet these objectives, EO 11990 requires federal agencies to use a systematic decision-making process to evaluate the potential

[514] 42 U.S.C. § 6901 et seq.
[515] 44 C.F.R. § 9.6.

effects of projects in, or affecting, wetlands; document each step of the process; and involve the public in the decision-making process.

FEMA publishes its implementing regulations for EO 11990, Protection of Wetlands in 44 C.F.R. Part 9, Floodplain Management and Protection of the Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.

XXI. Executive Orders 12898 and 14096, Environmental Justice

EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations[516] and EO 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All,[517] make clear that the pursuit of environmental justice is a duty of all federal agencies and should be incorporated into their missions. EO 14096 supplements the foundational efforts of EO 12898 to address environmental justice. EO 14096 also includes, a whole of government definition of environmental justice.

If FEMA determines that a proposed project would have disproportionately high and adverse effects on minority or low-income populations, then FEMA will work with an applicant to revise the scope of work to avoid the impacts or condition of a project with mitigation measures to alleviate the impacts.

XXII. Executive Order 13112, Invasive Species

EO 13112 requires agencies to use their programs and authorities to help prevent the introduction, establishment, and spread of invasive species; respond to invasive species outbreaks; restore native species in areas invaded by invasive species; promote public education related to invasive species control; and avoid authorizing, funding, or carrying out activities that promote the introduction, establishment, or spread of invasive species. FEMA will consult with state and local environmental and debris management agencies to ensure projects are in compliance with EO 13112.

Appendix E: Private Nonprofit Facility Eligibility Examples

Below are examples of private nonprofit (PNP) facility eligibility determinations.

I. Facility Owned by PNP – PNP Leases Portion of Facility to For-Profit Service

Parkland Hospital is an eligible PNP that owns a medical office building and leases a portion of it to doctors and laboratories that are providing for-profit services. The for-profit leases are for 70 percent of the floor space, excluding the common area floor space, as defined in this policy.



Analysis

The building is ineligible because more than 50% of the building space is leased to an ineligible applicant.

II. PNP Recreational Center Providing Eligible Services

The PNP Springtown Recreation Center claims that it provides eligible essential social services in addition to its recreation activities and should be eligible for assistance. The organization claims that its services now include day care for elderly adults, senior citizen center programs, programs for families of domestic abuse, and shelter workshops. These programs are provided by the recreation center staff and offered 5 days a week. Recreation activities are limited to evenings and weekends. The entire center is used for the eligible services.



Analysis

The organization would not appear to be eligible based upon its name and presumed mission. A detailed examination is necessary to determine the eligibility of the organization and its facility based upon the eligible services provided. In cases where space is not dedicated to any specific activity, the amount of time dedicated to eligible purposes in such spaces determines eligibility and the level of assistance. Therefore, even though the entire facility is used for eligible purposes, FEMA prorates PA funding based on the proportion of the total time it is used for eligible services.

III. Support Facility Owned by PNP

A parking garage is owned by an eligible PNP hospital to support its nearby hospital facility. The ground floor is leased to retail businesses and totals 15 percent of the total space of the garage.

Analysis

Title 44 of the Code of Federal Regulations (C.F.R.) § 206.221(e), Private nonprofit facility, authorizes assistance for administrative and support facilities essential to the operation of medical facilities and emergency facilities, which in this example includes the parking garage. Because the hospital uses more than 50% of the parking garage, the facility is eligible based on primary use. FEMA assistance would be prorated based on the percentage of space used for the eligible parking purpose. The parking garage is eligible only because of its association with the hospital.

IV. Facilities Owned by PNP Homeowners' Association

The Woodlands Homeowners' Association is a PNP organization responsible for providing certain services for a 200-home development. The Homeowners' Association is responsible for the local neighborhood streets, water system, sewage system, fire station, medical clinic, neighborhood park, community center, and a recreational lake and dam.

Analysis

The Homeowners' Association provides eligible critical services and therefore is an eligible PNP. The eligibility of each service is considered separately. The lake, dam, and park are not eligible PNP facilities because they provide primarily recreational services. The water and sewage systems meet the definition of a utility and are eligible for assistance. The fire station and medical clinic are eligible as emergency and medical facilities. The streets which support provision of any critical services directly by the PNP are eligible facilities. However, the eligibility of street-related work depends on whether the streets have restricted access and the type of work involved. The community center is considered more closely. If it is primarily used as a gathering place for a variety of social, educational enrichment, and community service activities, it is eligible because it provides noncritical but essential social services. To be eligible, it must serve the general public outside the Homeowners' Association community.

V. Recreational Center – Primarily Athletic Services

Westover Recreation Center sponsors a variety of activities. The center is available for rental on Friday, Saturday, and Sunday evenings to companies, religious groups, clubs, and civic organizations. It is offered as a location for league parties, office parties, seminars, conferences, and holiday celebrations. The center has rooms set aside for seniors' bridge and other card games, along with occasional workshops for photography, pottery and ceramics, and art. However, the center is primarily oriented to athletics, as exemplified by a large indoor pool and locker room, a half dozen squash/racquetball courts, a weight/exercise room, and a 9,200-square-foot gymnasium/basketball court.

Analysis

Although Westover Recreation Center offers some eligible noncritical essential social services, it is, first and foremost, a recreation center. In contrast to the definition of an eligible community center, it is neither established nor primarily used as a gathering place for a variety of social, educational enrichment, and community service activities, even though it does offer some of these.
Facilities established or primarily used for athletic (or) recreational activities are ineligible community centers. The Articles of Incorporation filed with the state verify that Westover was established for recreational purposes. It is not necessary to calculate the percentage of time or space devoted to community activities versus athletic and recreational activities, because Westover is on its face overwhelmingly athletic and recreational. For these reasons, a PNP facility similar to Westover would not be eligible.

VI. Mixed Use Community Center – Nominal Fee

Somerset Community Center consists of several meeting rooms, a lending library, social services room, health services room, dining room, activity area with games and a wide-screen TV, darkroom, pianos for practice, ceramics lab, woodshop, computer room, sewing machines, exercise room, and a large foyer. Outside are a fitness trail, garden plots, an outdoor basketball court and softball field, a gazebo, and picnic area.

A nominal membership fee is charged. Classes are offered in piano, bridge, arts and crafts, and cooking. The center sponsors numerous seniors' activities, which include trips, luncheons, and recreational and educational activities. A lunch program is offered for seniors and their spouses. Some exercise classes are also offered. Health screenings and immunizations are regularly offered. Door-to-door transportation is provided to those who need it.

Analysis

By virtue of the wide range of eligible community center activities, Somerset Community Center would be an eligible community center. Although it does offer athletic and recreational activities, these are minimal in the time and space allocated to them; therefore, it is not a recreational center. As the fee is nominal, it is open to the public.

VII. School Operated by a Religious Institution

The Community Church operates a state-certified private school offering first through eighth grades. The teaching curriculum includes math, science, English, history, physical education, and religious doctrine. The school has an average attendance of 500 students. The campus consists of three buildings: one used primarily for the secular curriculum, one used primarily for religious instruction, and a chapel primarily used for religious worship. Admissions to the school are restricted to members of Community Church.



Analysis

Evaluate the three buildings separately. The two buildings used, respectively, for secular and religious education are eligible as educational facilities. As educational facilities, they are considered to provide critical services and therefore Community Church does not need to apply to SBA to receive funding for permanent work on those buildings. The chapel is eligible as a house of worship. Houses of worship provide noncritical services, so Community Church is required to apply for an SBA loan for the chapel. The restricted admissions process does not affect eligibility. Pursuant to Stafford Act Section 102(11)(B), no PNP facility is excluded from eligibility because leadership or membership in the organization is limited to people that share a religious faith or practice.

VIII. Religious Institution with a Dock, a Church, and a Pastor's Residence

A religious institution owns multiple structures within its campus. One of the structures is a dock primarily used for recreation. The buildings include a church that provides worship services and a pastoral residence.



Analysis

Evaluate the structures separately. The dock is ineligible because its use is primarily recreational, which is an ineligible service. The church is eligible because its primary use is as a house of worship. The residence is not eligible because a private residence is not an eligible PNP service. The applicant must apply for an SBA loan for repairs to the church as it provides a noncritical service.

Appendix F: Mosquito Abatement

FEMA provides reimbursement for mosquito abatement measures at the written request of the state, local, Tribal Nation, and territorial (SLTT) public health officials after FEMA consults with the Centers for Disease Control and Prevention (CDC), based on any of the following:

- Evidence of:
  - Higher levels of disease transmitting mosquitoes in the impacted area following the incident;
  - A significant number of disease-carrying mosquitoes in the area due to the increase in incident-related standing water; or
  - The potential for disease transmission and human exposure to disease carrying mosquitoes based on the detection of arboviral diseases in sentinel organisms (poultry, wild birds, mosquito pools) in the impacted area prior to the incident, discovered during surveillance as part of mosquito abatement activities, or reported human cases in which transmission occurred prior to the incident.
- A determination that a significant increase in the mosquito population and/or the change of biting mosquito species poses a threat to emergency workers who are required to work out-of-doors, thereby significantly hampering response and recovery efforts or represent a threat to public health and safety.
- Such evidence may include an abnormal rise in landing rates or trap counts, significant changes in species composition or estimate of infection rates, when compared to pre-incident surveillance results.
- Verification from medical facilities within the affected area that an increase in the general public's exposure to mosquitoes has directly resulted in secondary infections, especially among those with weakened immune systems such as the elderly, the very young, or the sick. This may occur when increased numbers of residents in impacted areas with extended power outages are forced to open buildings for air circulation.



Terminology

- An **arbovirus** is a virus utilizing arthropods as vectors and is transmitted via their feeding to a definitive host.
- The **landing rate**, expressed as number of mosquitoes landing per minute, is used as an adult mosquito surveillance measure utilizing human volunteers as bait.
- **Methoprene briquettes** are formulated with methoprene (compound that mimics the action of an insect growth-regulating hormone and prevents the normal maturation of insect larvae) growth inhibitor and a timed-release carrier that resembles a charcoal briquette.
- A **sentinel organism** is an organism, usually fowl, purposely exposed to mosquito bites outdoors to monitor pathogen transmission by mosquitoes.
- **Seroconversion** is the development of detectable antibodies in the blood of a sentinel organism directed against an infectious agent.
- **Trap count** is the number of female mosquitoes captured in a trap receptacle each night the traps are set.

Where possible, a determination of the need for vector control measures should be based on surveillance data provided by local agencies, or on surveillance conducted as a component of the emergency response. Similarly, termination of control efforts should be based on mosquito density and disease transmission monitoring, and on the degree of exposure to mosquitoes of residents and responders. Information useful in determining the need for emergency mosquito control measures includes:

- The local jurisdiction's mosquito population density estimates pre- and post-disaster, including information about species composition;
- Arbovirus transmission activity indices, including information about the location of surveillance activities; indices may consist of:
  - Infection rates in mosquitoes;
  - Seroconversion in sentinel chickens;
  - Equine cases; or
  - Human cases.
- The amount and type of flooding (e.g., saltwater/freshwater, coastal/inland);
- The extent and location of damage to housing;
- The extent, location, and anticipated duration of power interruption;
- The anticipated extent and duration of cleanup and recovery operations; and,
- A description of the type of mosquito management required (e.g., aerial or ground- based adulticide applications, larvicide applications), and duration of application to reduce the threat and the areas where the interventions are needed and cost estimates to justify the chosen mosquito management option is necessary and reasonable.

To be eligible for PA funding, insecticide formulations must be among those approved and registered by the U.S. Environmental Protection Agency for use in urban areas for mosquito control and must be applied according to label directions and precautions by appropriately trained and certified applicators. Furthermore, mosquito abatement measures must comply with all federal and SLTT laws, ordinances, and regulations concerning vector control and align with CDC.gov guidance for mosquito abatement measures. Mosquito abatement measures include, but are not limited to: adulticiding, larviciding, and breeding habitat removal or alteration.

Terminology

Adulticiding – The ground or aerial spraying of insecticides to kill adult mosquitoes.

Larviciding – The application of chemicals, including methoprene briquettes, by ground or air to kill mosquito larvae or pupae.

Breeding habitat removal or alteration – The modification of potential breeding habitat to make it unsuitable for mosquito breeding or to facilitate larval control, including:

- Draining or removing standing water in close proximity to homes, schools, sheltering facilities, and businesses;

- Increased dewatering through the pumping of existing drainage systems; and,
- Dissemination of information in an accessible and effective manner (e.g., inserting flyers with resident's water bills, public service announcements, newspaper campaigns) to direct residents to remove the mosquito breeding habitat.

Appendix G: Alternative Procedures for Permanent Work

Alternative procedures offer applicants maximum flexibility in how they use PA funds to restore damaged facilities. Under standard procedures, applicants receive PA funding based on the pre-disaster size, capacity, and function of a damaged facility. However, Section 428 of the Stafford Act authorizes FEMA to award PA funding based on estimates which are "fixed" or capped for large permanent work projects through alternative procedures. These procedures can only be applied to large projects.

Alternative procedures projects enable applicants to actively shape their recovery outcomes by considering the community's hazards, risks, exposure, and vulnerability and how they can be mitigated. There are several benefits for applicants when they choose alternative procedures, including less itemized cost tracking and increased flexibility of funding and restoration. This structure allows applicants to focus on long-term recovery, make strategic use of available funds, and maximize opportunities for hazard mitigation and resilience improvements.

I. Differences Between Standard and Alternative Procedures

Table 35. Differences Between Standard and Alternative Procedures

Consideration	Standard Procedures	Alternative Procedures
Funds	▪ Actual cost project. No retention of excess funds associated with the approved project; and, ▪ Can only use funds toward the specific work identified in each specific project.	▪ Fixed-cost project with use of excess funds; and, ▪ May use funds across all alternative procedures projects.
Tracking	▪ Must track costs specific to each work item within each individual project; and, ▪ Must track all work specific to each individual project.	▪ Do not need to track costs to specific work items. Only need to track the total costs associated with the alternative procedures projects; and ▪ Do not need to track work to specific projects. Only need to substantiate that the work is related to the approved scope of work (SOW) covered in the alternative procedures projects.

Consideration	Standard Procedures	Alternative Procedures
Amendments	▪ After FEMA approves a SOW, FEMA requires approval for any change to the SOW; and, ▪ Must track costs associated with all changes to the SOW.	▪ After FEMA approves a SOW, FEMA only requires approval for changes that involve buildings or structures that are 45 years or older, ground disturbing activities, or work in or near water; and, ▪ Do not need to track costs associated with changes to the SOW.

II. Fixed Cost Estimate

Under alternative procedures for permanent work, FEMA funds large projects based on a fixed cost estimate instead of the actual costs reconciled at closeout. FEMA, recipients, and applicants must agree to the damage description and dimensions (DDD), Scope of Work (SOW), and resilience initiatives through hazard mitigation for a project before the fixed cost estimate is developed either by FEMA or provided by the applicant.

FEMA caps PA funding for an alternative procedures permanent work project based on the aggregate federal share of the approved estimated cost:

- To restore the damaged facilities to pre-disaster design and function in accordance with eligible codes and standards; and,
- For cost-effective PA mitigation measures associated with the actual restoration SOW that the applicant will perform.

The following are allowable costs for the cost estimate.

A. Architectural, Engineering, Environmental Review, and Design Fees

FEMA provides funding to support the development of complex projects that require an architectural, engineering, or environmental design. FEMA develops a project that includes the description, parameters, and cost estimate of the required design which is ultimately included in the fixed cost estimate for the associated project. FEMA also includes any design fees for services necessary to complete the restoration project SOW in the cost estimate.

B. Construction and Other Restoration Costs

FEMA includes all eligible construction costs or other costs necessary to complete the eligible SOW, including:

- Required permitting fees;
- Costs for necessary project and/or construction management services;
- Funding required for:

- Codes, specifications, and/or standards or industry standards;[518]
- Any applicable consensus-based code, specification; and/or standard that the applicant identifies for the facility; and/or,
- Any approved industry standard as applicable under the Bipartisan Budget Act[519].

C. Public Assistance Hazard Mitigation

PA hazard mitigation funds can be added to project funding for repairs on disaster-damaged facilities to help prevent future damage. When applicants repair the function of a facility but adjust its pre-disaster capacity, the proposed PA mitigation SOW is based on the actual work being done. However, cost-effectiveness is assessed according to the fixed amount set for restoring the facility to its pre-disaster condition. If the facility's capacity is increased, the mitigation SOW and costs are limited to what is needed to protect the facility at its original, pre-disaster capacity.

Approved mitigation proposals are included as a separate fixed cost amount within the subaward and must align with the actual recovery work planned. This hazard mitigation SOW and cost estimate are separate from the repair project itself. If the approved PA mitigation is not completed, FEMA will reduce the fixed cost amount by the portion intended for hazard mitigation.

III. Fixed Cost Offer

To develop the fixed cost offer FEMA engages with qualified engineers and architects, cost estimators, construction managers, and other technical experts as necessary to develop or validate cost estimates for large permanent work projects.

FEMA transmits the cost estimate as a fixed cost offer to the applicant via PA Grants Manager/Grants Portal for consideration. If applicants accept the fixed cost offer, the project is considered an alternative procedures project. The deadline for accepting the fixed cost offers is described below under Fixed Cost Offer Deadlines.

FEMA considers the fixed cost amount reasonable and eligible if there is no evidence of fraud and the applicant complies with federal grant conditions, including procurement requirements. Fixed cost estimates must also be reduced by all applicable credits, such as insurance proceeds and salvage values.[520] Obligation of the project constitutes FEMA's acceptance of the fixed cost amount. Once an applicant accepts a fixed cost offer, the project cannot revert to standard procedures.

Once FEMA, the recipient, and the applicant agree to the fixed cost estimate for the subaward, there will be no further adjustment, except for insurance adjustments and adjustments for approved SOW changes associated with hazard mitigation. FEMA's cost estimating format includes contingency factors for hidden damage, unforeseen environmental and permitting requirements, and other unidentified circumstances.

[518] For more information, refer to Codes and Standards in Chapter 8.
[519] For more information, refer to: BBA Policy (September 2018).
[520] Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

If the final actual costs are more than the approved fixed cost award, FEMA will not approve additional funds. If the final actual costs are less than the subaward, the applicant may use the excess funds as described below under the Excess Funds section of this appendix.

A. Fixed Cost Offer Deadlines

FEMA, the recipient, and the applicant must reach a fixed cost agreement within 18 months of the declaration date. Recipients and applicants have a combined total of 30 days to accept fixed cost offers from the date of FEMA's transmittal. If fixed cost offers are not accepted within 30 days, If the applicant does not accept the fixed cost offer, the project is processed utilizing standard procedures and final funding will be based on actual costs. The flexible use of funds and the use of excess funds are not available under standard procedures.

Any time extensions to accept fixed cost offers must be approved by FEMA's Assistant Administrator for Recovery before the deadline. If an applicant is requesting a project for only architecture and engineering (A&E), it must determine the actual SOW to be performed before a fixed cost offer is transmitted.

IV. Use of Funding

Applicants may share funds from the fixed cost subaward across all alternative procedures for permanent work projects for:

- Repair, restoration, or replacement of disaster-damaged facilities and equipment;
- Construction of new facilities to include land acquisition;
- Purchase of equipment; or
- Cost effective hazard mitigation measures that reduce future risk.

If funds for PA hazard mitigation are included in the fixed cost subaward, applicants must complete the approved scope of work of the hazard mitigation in order to retain the mitigation funding. If an applicant is considering abandoning or demolition of the original facility see Chapter 10: Environmental and Historic Preservation for more information on the limitations and requirements.

A. Excess Funds

Applicants request to use the funds for designated activities in the "Eligible with Fixed Cost Funds" column in Table. Eligible Work and Costs for Use of Fixed and Excess Funds below. Once FEMA approves – and applicants complete – the SOW associated with these activities, applicants may use any excess funds for the expanded list of eligible activities listed under the "Eligible with Excess Funds" column.

Any excess funds remaining after the approved SOW is complete may be used for cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster, and activities that improve future PA operations or planning. Applicants must submit a proposed SOW for use of any excess funds, along with a project timeline, to the recipient within 90 days of completing its last alternative procedures project. Recipients must forward the request to FEMA within 180 days of date the last

alternative procedures project was completed. Applicants can submit a request for a time extension to this deadline to FEMA for consideration.

FEMA evaluates the proposed use of excess funds for reasonableness to ensure prudent use of funds. FEMA also evaluates the submitted project timeline and approves an appropriate deadline for work completion, not to exceed the overall disaster period of performance.

The following table lists examples of eligible and ineligible types of work and costs when using fixed cost funds and excess funds. All work must otherwise be eligible for PA.

Category I projects cannot be included in an alternative procedures for permanent work project.

Table 36. Eligible Work and Costs for Use of Fixed Cost and Excess Funds

Type of Work or Cost	Eligible with Fixed Cost Funds?	Eligible with Excess Funds?
Restoration of disaster-damaged facilities and equipment	Yes	Yes
Alternate projects (e.g., purchasing equipment, constructing new facilities, improvements to undamaged facilities such as shelters and emergency operation centers) in declared areas	Yes	Yes
Cost-effective hazard mitigation measures for undamaged facilities	No	Yes
Covering future insurance premiums, including meeting obtain and maintain (O&M) insurance requirements, on damaged or undamaged facilities	No	Yes
Work on facilities that are ineligible due to a failure to meet previous O&M requirements	No	No
Conducting or participating in training for response or recovery activities, including federal grants management or procurement courses	No	Yes
Planning for future disaster response and recovery operations, such as developing or updating plans (e.g., debris management plans, hazard mitigation plans, pre-disaster recovery plans, emergency management plans), integrating these plans into other plans, preparedness activities, exercises, and outreach	No	Yes
Salaries for PA or emergency management staff (e.g., staff performing PA award or subaward administration, monitoring, and closeout activities for other PA disaster awards, and staff developing or updating disaster plans)	No	Yes

Type of Work or Cost	Eligible with Fixed Cost Funds?	Eligible with Excess Funds?
Paying down debts	No	No
Covering operating expenses	No	No
Covering budget shortfalls	No	No
Covering the non-federal cost share of FEMA projects or other federal awards	No	No

III. Scope of Work Changes

Once the scope of work is approved and a fixed cost offer is accepted, applicants must notify FEMA prior to making scope of work changes that involve:

- Buildings or structures that are 45 years of age or older;
- Ground disturbing activities; or
- Work in or near waterways.

With exception of buildings or structures that are 45 years of age or older, applicants do not need to notify FEMA when they intend to make changes that substantially conform to the approved scope of work. Changes that substantially conform include items, such as:

- Substitutions in material type (e.g., pre-cast concrete vs. steel beam, stainless steel vs galvanized fasteners); or
- Interior floor plan reconfigurations (e.g., adding, moving, or removing rooms/features).

If applicants wish to change the scope of work to the extent that it changes the hazard mitigation or if the scope of work of the hazard mitigation requires an adjustment for any other reason, such changes must be approved within the 18-month deadline and the fixed cost offer amount will be adjusted to reflect the cost of the revised hazard mitigation scope of work.

IV. Closeout Requirements

Work must be completed by the end of the approved alternative procedures project work completion deadline and the recipient must certify that all incurred costs are associated with the approved SOW. Additionally, recipients must certify that subrecipients have completed all work in accordance with FEMA regulations and policies. Recipients must submit their certifications to FEMA within 180 days of the subrecipient completing its last alternative procedures project or the latest alternative procedure project deadline, whichever occurs first, for the subrecipient to retain and use any excess funds.

The closeout certification must include a final report of alternative procedures project costs and documentation to support the following:

- Summary of actual work completed;
- Mitigation measures achieved, if applicable;

- Compliance with EHP requirements;
- Compliance with civil rights and equity requirements;
- Compliance with the obtain and maintain insurance requirement;
- Summary of total actual costs to complete the alternative procedure projects;
- Compliance with federal procurement procedures; and,
- Actual insurance proceeds received.

Subrecipients do not need to track costs to specific work line items. Subrecipients only need to substantiate and certify that all claimed costs are related to the overall work deemed eligible for the alternative procedure projects.

V. Other Considerations

A. Requirement to Obtain and Maintain Insurance

Applicants that receive PA funding for permanent work to replace, repair, reconstruct, or construct a facility must obtain and maintain insurance to protect the facility against future loss.[521] Applicants must comply with this requirement as a condition of FEMA assistance. This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles), including those funded as an alternative procedures for permanent work project.[522] FP 206-086-1 Public Assistance Policy on Insurance[523] describes these requirements in detail.

B. Appeals for Alternative Procedures Projects

FEMA does not grant appeals on alternative procedures permanent work projects, except in cases of a cost adjustment after the fixed-cost offer has been accepted (such as adjustments related to insurance, noncompliance, or audits). Any disagreements regarding damage, SOW, or costs must be resolved before the applicant accepts the fixed cost offer. Additionally, FEMA does not grant appeals on denied time extensions to accept fixed cost offers for alternative procedures permanent work projects.

C. Office of the Inspector General

The Department of Homeland Security's Office of Inspector General (OIG) conducts independent audits and investigations on FEMA programs, operations, activities, and functions; how recipients and subrecipients expend federal funds; and oversight of non-federal audits such as single audits. The OIG evaluates activities to identify, deter, and address fraud, waste, and abuse. The OIG has authority to audit any project, including alternative procedures projects.

[521] Stafford Act § 311; 42 U.S.C. § 5154; 44 Code of Federal Regulations (C.F.R.) § 206 Subpart I; 2 C.F.R 200.310.
[522] 44 C.F.R. § 206.203(d).
[523] For more information, refer to: Public Assistance Policy on Insurance (FP 206-086-1) | fema.gov.

Appendix H: Mold Remediation

I. Mold Remediation Methods

The following table describes common mold remediation methods.

Table 37. Mold Remediation Methods[524]

Method	Application
Wet Vacuum	▪ Use when materials are wet; ▪ Use where water has accumulated, such as on floors, carpets and hard surfaces; and, ▪ Do not use when sufficient liquid is not present.
Damp Wipe	▪ Wipe or scrub non-porous (hard) surfaces with water and detergent; and, ▪ Follow instructions listed on the product label.
High-Efficiency Particulate (HEPA) Vacuum	▪ Final clean-up after thoroughly dry and contaminated materials are removed; ▪ Recommended for cleanup of dust outside of the remediation area. ▪ Properly seal HEPA filter; and, ▪ Personal protection equipment is highly recommended; filter and contents must be disposed of in well-sealed bags.
Discard	▪ Use for building materials and furnishings that cannot be remediated; ▪ Seal contents in two bags using 6-mil polyethylene sheeting; ▪ Cover large items in polyethylene sheeting and seal with duct tape; and, ▪ Sealing of materials must be within containment area to limit further contamination.

II. Application of Remediation Methods

The following table outlines typical mold remediation actions.

[524] Summarized from Indoor Environments Division of the U.S. Environmental Protection Agency, “Mold Remediation in Schools and Commercial Buildings.”

Table 38. Application of Mold Remediation Methods[525]

Water Damaged Material	Action
Books and paper	▪ Non-valuable items: discard; ▪ Valuable/important: photocopy and discard originals; and, ▪ Invaluable items: freeze in frost-free freezer or meat locker or freeze dry.
Carpet and backing	▪ Wet vacuum; ▪ Reduce ambient humidity levels with dehumidifier; and, ▪ Accelerate drying process with fans.
Ceiling tiles	▪ Discard and replace. (Replacement is only eligible as permanent work.)
Cellulose insulation	▪ Discard and replace. (Replacement is only eligible as permanent work.)
Concrete or cinder block surfaces	▪ Wet vacuum; and, ▪ Accelerate drying process with dehumidifiers, fans, and/or heaters.
Fiberglass Insulation	▪ Discard and replace. (Replacement is only eligible as permanent work.)
Hard surfaces, porous floorings (linoleum, ceramic tile, vinyl)	▪ Vacuum or damp wipe with water and mild detergent; ▪ Scrubbing may be necessary; and, ▪ Allow to dry.
Upholstered furniture	▪ Wet vacuum; and, ▪ Accelerate drying process with dehumidifiers, fans, and/or heaters.
Wallboard (drywall and gypsum board)	▪ If obvious swelling and seams are not intact: discard; ▪ If no obvious swelling and seams are intact: may be dried in place; and, ▪ Ventilate wall cavity. (May include removal of wallboard up to 12-16 inches above the waterline.)
Window drapes	▪ Launder or clean according to manufacturer's instructions.
Wood surfaces	▪ Remove water with wet vacuum; ▪ Accelerate drying process with dehumidifiers, fans, and/or heaters; and, ▪ Wet paneling: discard and ventilate wall cavity.

[525] Summarized from the U.S. Environmental Protection Agency's Mold Remediation in Schools and Commercial Buildings | epa.gov.

Appendix I: Work Eligibility Considerations by Type of Facility

I. General Work Eligibility Considerations for Facilities

Table 39. Work Eligibility Considerations: All Facilities

PAPPG Reference	Topic	Applicability
Ch. 4: Facility Eligibility	Facility Eligibility	All permanent work.
Ch. 4: General Work Eligibility	General Work Eligibility	All work.
Ch. 6: Cost Eligibility	Cost Eligibility	All eligible work.
Ch. 7: Emergency Work Eligibility	Emergency Work Eligibility	All emergency work, including debris removal (category A) and emergency protective measures (category B).
Ch. 7: Debris Removal	Debris Removal Eligibility	All debris removal work.
Ch. 10: Environmental and Historic Preservation; Appendix A	Environmental and Historic Preservation (EHP) Compliance	All work (including ground disturbance for any staging areas, access roads, parking, landscaping, grading, or utilities).
Ch. 8: Codes and Standards	Codes and Standards	Upgrades to pre-disaster design required by codes or standards.
Ch. 8: Hazard Mitigation; Appendix J	Hazard Mitigation	Hazard mitigation is any cost-effective measure which will reduce the potential for damage to a facility from a disaster event.[526]
Ch. 8: Repair vs. Replacement	Replacement	The purpose of the 50% rule is to make an early determination on whether it is more prudent to repair or replace a facility. It is not intended to be a full calculation of all eligible project costs.
Ch. 8: Relocation	Permanent Relocation	FEMA may approve funding for and require restoration of an applicant's destroyed (i.e., eligible for replacement) facility at a new location.
Ch. 8: Facility Located in or Impacting a Floodplain	Floodplain Considerations	All permanent work in or impacting the floodplain.
Ch. 8: Landslides and Slope Stabilization	Landslides and Slope Stabilization	Facilities damaged due to a landslide or slope instability triggered by the incident.
Ch. 8: Building Code and Floodplain Management	Disaster Recovery Reform Act Section 1206	FEMA will provide resources needed to effectively administer and enforce building

[526] 44 Code of Federal Regulations (C.F.R.) § 206.201(e).

PAPPG Reference	Topic	Applicability
Administration and Enforcement		codes and floodplain management regulations (e.g., substantial damage assessments or determinations, permitting) and enhancing National Flood Insurance Program (NFIP) compliance.
Ch. 7: Temporary Relocation of Essential Services	Temporary Relocation	Certain essential community service facilities.

II. Work Eligibility Considerations for Roads and Bridges

The following work eligibility considerations apply to:

- Roads (including, but not limited to: surface, base, shoulders, roadside ditches, guardrails, lighting, signage, sidewalks);
- Drainage structures (including, but not limited to culvert, low-water crossing); and,
- Bridges (including, but not limited to, decking, pavement, piers, girders, abutments, slope protection, approaches, guardrails, lighting, signage, sidewalks).

EHP laws, regulations, and EOs that frequently apply: NEPA; NHPA, ESA, CWA, CAA, EOs 11988 and 11990. In addition, projects involving work in waterways usually require Section 404 permits, which are issued by the USACE as required by the CWA and also for local NFIP requirements.

Policy waiver for any ineligible work requires approval from Assistant Administrator of Recovery.

Table 40. Work Eligibility Considerations: Roads and Bridges

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	A	▪ Debris removal and disposal to eliminate an immediate threat.	▪ Removal of debris placed on public ROWs from commercial properties unless approved by FEMA. ▪ Removal of materials related to the construction, repair, or renovation of either residential or commercial structures.	▪ Must distinguish between incident-related debris versus debris generated by other recent events, and household waste.
Ch. 7	B	▪ Emergency access ▪ The extent of damage or blockage makes areas inaccessible.	▪ Removal of debris from a privately-owned access facility unless no other access point exists, and damage or	▪ Must acquire and retain all necessary legal processes or obtains rights-of-entry and agreements to indemnify and hold

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		▪ Clearing debris from or conducting emergency repairs to an access facility, such as a road or bridge. ▪ Limited to work necessary for the access to remain passable. ▪ Includes construction of strictly temporary access.	debris impedes emergency access. ▪ Emergency repairs to privately-owned roads unless no other access point exists, damage impedes emergency access, and repair eliminates temporary housing needs.	harmless the federal government.
Ch. 7	B	▪ Emergency repairs to address an immediate threat.	▪ Emergency repair of federal-aid highways (under FHWA authority).	▪ None.
Ch. 6 & 8	C	▪ Restoration (permanent repair or replacement).	▪ Loss of useful service life ▪ Loss of toll revenue ▪ Construction of additional lanes even if required by a code or standard, except when code requires changing a one lane bridge to two lanes. ▪ Costs related to maintenance of roads. ▪ Repair of disaster-caused federal-aid highways (under FHWA authority). Does not apply to Tribal Nations.	▪ Must distinguish between minor incident-related damage and damage related to age of the road, traffic flow, and frequent rain events. ▪ Need date of construction for culvert and any nearby structures that may be altered or affected by the project. ▪ Hydrologic and hydraulic (H&H) studies to evaluate upstream and downstream impacts are necessary if replacing culvert with differently sized cross drain structure.

III. Work Eligibility Considerations for Water Control Facilities

The following work eligibility considerations apply to:

- Dams or reservoirs;
- Irrigation and water conveyances (including canals, pipelines, laterals, pump stations, siphons);

- Aqueducts;
- Drainage channels;
- Sediment and debris basins;
- Stormwater retention and detention basins;
- Coastal shoreline protection facilities (including seawalls and revetments);
- Flood control works (including levees, floodwalls, flood control channels, dams or basins, and other structures primarily used for flood control);
- Navigational waterways; and,
- Shipping channels.

Construction of storm water drainage facilities associated with road projects (inside the ROW) are instead considered eligible work under category C.

EHP laws, regulations, and EOs that frequently apply to work eligibility for water control facilities include NEPA, NHPA, ESA, CWA, EOs 11988 and 11990. Projects involving work in waterways usually require Section 404 permits, which are issued by the USACE as required by the CWA and to include potential local NFIP requirements.

Policy waiver for any ineligible work requires approval from Assistant Administrator of Recovery.

Table 41. Work Eligibility Considerations: Water Control Facilities

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	A	▪ Debris removal and disposal (from natural feature or engineered facility) to eliminate an immediate threat. ▪ Debris removal eligibility requirements are different for navigable vs. non-navigable waterways	▪ Removal of debris to eliminate a threat of flooding to agricultural land. ▪ Surveys to look for debris. ▪ Debris removal from flood control works that are under the specific authority of another federal agency. ▪ Removal of debris from federally maintained navigable waterways.	▪ Must distinguish between incident-related debris versus pre-existing debris and debris generated by other incidents.
Ch. 7	B	▪ Flood-fighting (on natural feature or engineered facility) or emergency repairs (engineered and maintained facility only)	▪ Emergency protective measures to reduce the threat of flooding to agricultural land. ▪ Emergency repair of flood control works that are under the authority	▪ USACE can conduct flood fighting activities. ▪ USACE cannot reimburse applicants for flood fighting efforts.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		to address an immediate threat: ▪ Includes the repair of deliberate breaches or removal of flood-fighting measures as part of the category B emergency protective measure project.	of another federal agency. ▪ Permanently increasing height or capacity of a flood control work. ▪ De-watering of flooded areas primarily for the purpose of drying land. ▪ Emergency repair of a secondary levee riverward of a primary levee. ▪ Emergency repairs of flood control works under the authority of another federal agency and of federally constructed coastal shoreline protective features under the authority of another federal agency.	
Ch. 8	D	▪ Debris and silt removal required to restore capacity (engineered and maintained facilities only).	▪ Restoration of flood control works under the authority of USACE.	▪ None.
Ch. 8	D	▪ Restoration (permanent repair or replacement) ▪ Includes PNP irrigation facilities only if they provide water for essential services of a governmental nature to the general public for water for drinking water supply, fire suppression, or electricity generation	▪ Restoration of natural channels, lakes, and shorelines (any feature that is not improved and maintained) ▪ Restoration of PNP irrigation systems that provide water solely for agricultural purposes. ▪ Restoration of federally constructed coastal shoreline protective features	▪ None.

IV. Work Eligibility Considerations for Buildings, Equipment, and Vehicles

EHP laws, regulations, and EOs that frequently apply to work eligibility considerations for buildings, equipment, and vehicles include NEPA, NHPA, CAA, ESA and EOs 11988 and 11990.

Table 42. Work Eligibility Considerations: Buildings, Equipment, and Vehicles

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	▪ Extracting water and clearing mud, silt, or other accumulated debris from eligible facilities; ▪ Requires the work to be conducted expeditiously for the purpose of addressing an immediate threat; and ▪ Work necessary to restore the facility is permanent work, not emergency work (see category E below).	▪ Conducted on private property unless FEMA approves the work because: ▪ The immediate threat is widespread, affecting numerous homes and businesses such that it is a threat to the health and safety of the general public; ▪ The applicant has legal authority to perform the work; and ▪ The applicant obtained rights-of-entry and agreements to indemnify and hold harmless the federal government.	▪ None.
Ch. 8	E	▪ Removal of mud, silt, or other accumulated debris; and, ▪ Must be conducted in conjunction with restoration of the facility.	▪ None.	▪ None.
Ch. 7	B	▪ Mold remediation to address immediate threat of additional damage; and, ▪ Includes post-remediation sampling to confirm remediation is complete.	▪ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following the incident.	▪ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 8	E	▪ Mold remediation when conducted in conjunction with restoring the facility; and, ▪ Includes post-remediation sampling to confirm remediation is complete.	▪ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following the incident.	▪ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.
Ch. 7	B	▪ Emergency protective measures to address an immediate threat; ▪ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood protection, such as sandbagging; and ▪ Includes emergency repairs to prevent further damage.	▪ None.	▪ None.
Ch. 7	B	▪ Demolition to address an immediate threat; and ▪ May include demolition of private structures when collapse is imminent, and an immediate threat exists to the general public (subject to additional requirements).	▪ Removal of slabs or foundations that do not present a health or safety hazard (except structures in a buyout program funded by FEMA through HMGP); and, ▪ Removal or covering of concrete pads and driveways (except structures in a buyout program funded by FEMA through HMGP).	▪ If securing an unsafe structure and the surrounding area to prevent access is sufficient to alleviate the threat to public safety, demolition may not be necessary or eligible.
Ch. 7 & 8	B & I	▪ Safety inspections; ▪ Must be intended to establish whether a building is safe for entry, occupancy, and lawful use, as well as posting appropriate placards; and,	▪ Inspections associated with: ▪ A determination of whether the building needs to be elevated or relocated; ▪ Ensuring repairs are completed in accordance with	▪ None.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		▪ Applies to both public and private buildings.	applicable building codes and standards; ▪ Inspections for substantial damage compliance; ▪ Building inspections to ensure the removal of temporary fill and related materials used in flood fighting; and, ▪ inspections to ensure compliance with repair and substantial damage construction requirements.	
Ch. 6 & 8	E	▪ Post-earthquake inspection and evaluation of welded steel moment frames in buildings; and ▪ Must be intended to determine the level of disaster-related damage requiring repair.	▪ Preliminary assessment to determine which buildings are likely to have sustained damage to welded steel moment frame connections; ▪ Detailed analytical or experimental studies; and ▪ Inspections that do not yield discovery of significant connection damage attributable to the earthquake.	▪ The repair of the damaged frame connections to pre-earthquake design in accordance with FEMA 352, Chapter 6, is eligible, but only if FEMA approves a specific SOW for the repairs prior to the applicant performing the work; and ▪ Repair of the architectural finishes and fire retardants removed in the area of the damage are also eligible.
Ch. 6 & 8	E	▪ Restoration (permanent repair or replacement); ▪ Repair or replacement of buildings (to achieve pre-disaster design, capacity, and / or function); and, ▪ Repair or replacement of building components, vehicles or equipment with	▪ Tax assessments; ▪ Additional capacity necessary due to increased population or use, even if required by code; and, ▪ Americans Disabilities Act (ADA), if the applicant was notified of being in violation of a requirement prior to the incident and did	▪ Need date(s) of construction of all facilities in the project area; ▪ Check National Register of Historic Places or a State historic register; ▪ Identify whether the building is located in the 1% annual chance floodplain (0.2%

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		items similar in age, condition, and capacity.	not bring the facility into compliance, then accessibility requirements related to the violation are ineligible.	annual chance floodplain for critical actions); ▪ Public housing authority facility(s) is only eligible for permanent work if Congress does not appropriate funds to HUD for emergency capital needs for the facility; ▪ Must consider the age of the building, roof, and building systems; evidence of regular maintenance; severity and impacts of incident when distinguishing between incident-related damage and pre-existing damage; and, ▪ Comply with federally required codes and standards when repairing or replacing building.

V. Work Eligibility Considerations for Contents

Contents includes furnishings, equipment, consumable supplies, files, records, research-related contents, animals, irreplaceable collections and individual objects, library books, and publications.

Table 43. Work Eligibility Considerations: Contents

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	▪ Address an immediate threat; and, ▪ Includes removal and storage of contents to minimize additional damage.	▪ None.	▪ None.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 8	E	▪ Restoration (permanent repair or replacement); ▪ Replacement of destroyed contents with items similar in age, condition, and capacity; ▪ Condition assessment, stabilization, and treatment and treatment of irreplaceable items; ▪ Recovering and stabilizing records; and, ▪ Re-shelving, cataloging, and other work incidental to the replacement of library books and publications.	▪ Replacing used items with new items, unless a used replacement item is not reasonably available; ▪ Establishing new information databases; ▪ Manually re-entering data into new computers; ▪ Scanning re-established hardcopy files into computers to create digital files; ▪ Deciphering photocopies of damaged hard copies; ▪ Research-related contents and animal replacement, if a comparable item/animal is not available for purchase at a reasonable cost; and ▪ Replacement of rare books, collections, or objects.	▪ Contents may be replaced with different items used for the same general purpose; and, ▪ Eligible funding is capped at the estimated cost for equivalent items.

VI. Work Eligibility Considerations for Utilities

The following work eligibility considerations apply to:

- Water storage, treatment plants, and delivery systems;
- Power generation, transmission, distribution, and storage facilities (including, but not limited to, natural gas systems, wind turbines, generators, substations, and power lines);
- Sewage collection systems and treatment plants; and,
- Communication systems.

EHP laws, regulations, and EOs that frequently apply to work eligibility for utilities include NEPA, NHPA, ESA, CAA, CWA, and EOs 11988 and 11990 and to include potential local NFIP requirements.

Table 44. Work Eligibility Considerations: Utilities

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 6 & 7	B	▪ Emergency protective measures to address an immediate threat: ○ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood protection, such as sandbagging; and, ○ Includes emergency repairs to prevent further damage.	▪ Revenue lost due to shutdown of a utility; and, ▪ Increased operating costs, such as increased costs for obtaining an alternative source of power because of the shutdown of a power generation plant.	▪ Limited ROW clearance required to access a damaged facility may be eligible; ▪ For debris removal and permanent work, straight-time and overtime costs are eligible for both budgeted and unbudgeted labor; and, ▪ For emergency protective measures, only overtime costs are eligible for budgeted labor; for unbudgeted labor, both straight-time and overtime costs are eligible.
Ch. 6 & 8	F	▪ Restoration (permanent repair or replacement). ○ Includes components of the system, including buildings, structures, or systems, even if not contiguous; ○ Electrical conductor replacement subject to specific criteria; ○ Includes inspection or assessment of damaged components of a system; and, ○ May include inspection or assessment of an inaccessible structure or component of a system, but only when there is	▪ General post-disaster surveys, inspections, and assessments, such as video inspection of sewer lines.	▪ Eligible for mitigation and codes and standards upgrades.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		evidence of damage, such as when sunken ground appears above a water pipeline.		

VII. Work Eligibility Considerations for Parks, Recreation, and Other

EHP laws, regulations, and EOs that frequently apply to work eligibility for parks, recreation, and other include NEPA, NHPA, CZMA, CBRA, ESA, CWA, and EOs 11988 and 11990 and to include potential local NFIP requirements.

Table 45. Work Eligibility Considerations: Parks, Recreation, and Other

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	▪ Emergency protective measures to address an immediate threat: ○ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood protection, such as sandbagging; and ○ Includes emergency repairs or stabilization to eliminate or lessen an immediate threat.	▪ Work performed under an exigent circumstance that restores the pre-disaster design and function of the facility in accordance with codes and standards is permanent work, not emergency work.	▪ None.
Ch. 8	G	▪ Restoration (permanent repair or replacement): ○ Includes replacement of trees, shrubs, and other vegetation during site restoration.	▪ Restoration of federally constructed beaches or shoreline protection facilities; ▪ Restoration of PNP parks and recreational facilities, including supporting facilities	▪ Restoration of engineered beaches is subject to specific eligibility criteria.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
			such as roads, buildings, and utilities; ▪ Restoration of natural, unimproved features; ▪ Replacement of destroyed crops; and, ▪ Restoration of private and homeowners' association beaches or dunes,	

Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures

FEMA considers the following mitigation measures to be cost-effective PA mitigation if the measures do not exceed 100 percent of the eligible repair cost (prior to any insurance reductions). The mitigation measures must meet all eligibility requirements described under the Hazard Mitigation section in Chapter 8. There may be instances where these measures are required by codes or standards[527] (see the Codes and Standards section in Chapter 8). In these cases, the work is completed as part of the PA repair project and requires no additional cost-effectiveness evaluation. Resilience beyond that which is required by codes and standards is implemented as PA mitigation. All mitigation measures are subject to general eligibility requirements, including compliance with Environmental and Historic Preservation (EHP) laws, regulations, and EOs.

I. Drainage Structures

For Sections I.A and I.B (below), PA and EHP staff coordinate to determine whether a hydrologic and hydraulic (H&H) study is needed. Applicants must submit an H&H study to determine the appropriate culvert size with no adverse up or downstream impacts and National Flood Insurance Program regulations when:

- The facility is in a special flood hazard area;
- There is a potential adverse impact to the floodplain;[528]
- There is a potential adverse impact to a federally listed threatened or endangered species, critical habitat, or essential fish habitat;[529] or
- It is required to demonstrate compliance with the Clean Water Act.

A. Replace the structure with multiple structures or a larger structure. Applicants may use existing SLTT drainage criteria for sizing replacement culverts. Applicants must consider replacement structures with regard to the total drainage system.

B. For the purpose of erosion control, add properly designed entrance and exit structures, such as a headwall, wingwalls, flared aprons, or energy dissipation measures to increase efficiency and help to minimize scour and erosion. Depending on the severity of erosion, solutions for bank protection may include gabion baskets, rip rap, cast-in-place concrete, crushed stone or rock, grouted rip rap,[530] sheet-piling, geotextile fabric (for roads that were paved prior to the event), or similar measures to control erosion. Additionally, the use of nature-based solutions, which includes vegetation or a combination of vegetation and construction materials such as live fascines, vegetated geogrids, live crib walls, brush mattresses, root wads, or similar measures are eligible. Applicants should consider using eligible nature-

[527] 44 Code of Federal Regulations (C.F.R.) § 206.226(d).
[528] 44 C.F.R. §§ 9.11(d)(4) and 60.3(b)(7), (c)(10), and (d)(3).
[529] Endangered Species Act 16 U.S.C. §§ 1531-1544 and Magnuson-Stevens Fishery Conservation and Management Act.
[530] Projects involving grouted rip rap may be subject to an environmental assessment and may not be allowable in all instances.

based solutions such as bioswales, bioretention, rain gardens, and similar techniques that may be used in public drainage systems.

C. Culverts

1. Where the alignment of a culvert is inconsistent with existing water flow, realign the culvert vertically or horizontally or relocate the culvert to improve hydraulics and minimize erosion and scour. Applicants must consider realignment of structures with regard to the total drainage system.
2. Extend the culvert discharge to mitigate erosion and scour by extending the discharge end beyond the toe of the embankment.
3. Install a debris barrier to prevent debris blockage or fins designed to orient floating debris for passage through the culvert.
4. Install a debris barrier riser to allow debris to float up with the rising floodwaters without blocking flow into the culvert.



Example: Relief Culvert

Adding a relief culvert located at the same crossing site as a damaged culvert and in the embankment above the flow line of the primary culvert or located upstream of the main culvert. A relief culvert provides an alternate route for the flow if the main culvert is over capacity or gets plugged and prevents sedimentation through the high-flow scouring action.

II. Transportation Facilities

A. Bridges

1. Where traffic counts are low, replace with low-water crossings.
2. Install cables to restrain a bridge from being knocked off piers or abutments during floods or earthquakes.
3. Install girder and deck uplift tie-downs to prevent their displacement from the substructure.
4. Install Longitudinal Peaked Stone Toe Protection with nature planting, upstream of a failed abutment, to provide a stable floodplain bench for the protection of the abutment and the adjoining bridge approach. Consider other relevant nature-based solutions such as engineered logjams, log vanes or log bendway weir.

B. Marine pier ramps: If attached to decking, install open decking or floating decking with uplift-resistant tie-downs and fasteners.

C. Roadways and railways: Where shoulders are susceptible to overflow from adjacent water courses, stabilize shoulders and embankments with geotextile fabric (such as an erosion control blanket/rolled erosion control product (RECP) or a turf reinforcement mat) and revetments.

D. Roadways: Use geotextile drainage blankets between the pavement section and subbase to strengthen subgrade.

III. Mechanical, Electrical, Plumbing Components

A. Provide seismic bracing for electrical lines, conduit, piping, ductwork, water heaters, and other mechanical, electrical, plumbing (MEP) equipment.

B. Roof-mounted equipment: Secure to roof top via a continuous load path, using tie-downs, straps, or other anchoring systems that will resist expected wind forces.

C. Elevate or dry floodproof components or systems vulnerable to flood damage, including equipment controls, electrical panels; heating, ventilation, and air conditioning/machinery rooms; emergency generators; and fuel tanks. When wiring cannot be elevated, replace with equipment suitable for submerged applications.

D. Install switches, circuit isolation and/or quick connect capability to facilitate rapid connection of backup power for any damaged or susceptible mechanical and electrical components.

E. Install camlocks, transfer switches, and electrical panels to facilitate the connection of portable emergency generators.

IV. Pipes

A. Install pipe joint restraints, flexible piping at pipe/conduit connections, or replace pipes with more ductile material.

B. Install continuous lining or encasement to prevent infiltration or structural collapse.

C. Underground Pipes: Install shut-off valves so that damaged sections of pipe can be isolated.

V. Water/Wastewater

A. Pumps: If pumps and their attached motors are damaged by stormwater inundation, replace them with submersible or inline pumps as appropriate.

B. Sewer access covers: Elevate to the hydraulic grade line. When elevation is not feasible or practicable, install devices to prevent infiltration into access holes such as cast-iron watertight frames and covers.

C. Well systems: Seal exposed portions of well casing or raise the elevation of the well head to prevent infiltration of flood waters.

D. Raw water intakes: Install buttressing to prevent damage from erosion, scour, and flood debris.

VI. Electric Power Systems

A. Provide looped distribution service or other redundancies in the electrical service to critical facilities, such as hospitals and fire stations. This measure does not entail overall power grid capacity expansion.

B. Install surge suppressors and lightning arrestors.

C. Transformers:

1. Elevate pad transformers above the base flood elevation.
2. Support pole-mounted transformers with multiple poles.

D. Power poles:

1. Replace damaged poles with higher-rated poles (preferably two classes stronger) of the same or different material. When replacing poles with higher-rated poles, install guys and anchors to provide lateral support for poles supporting pole-mounted transformers, regulators, capacitor banks, reclosers, air-break switches, or other electrical distribution equipment.
2. Add cross-bracing to H-frame poles to provide additional strength.
3. Power lines: Add guy-wires or additional support.

VII. Storage Tanks

A. Anchor or otherwise protect from movement by strengthening or stiffening base connections.

B. Install self-initiating disconnects and shut-off values between tanks and distribution lines to minimize damage and leaks.

VIII. Buildings and Structures

A. For small support buildings subject to uplift or rollover from high winds, securely anchor the buildings to foundations to prevent toppling or becoming missile hazards.

B. Elevate, wet floodproof, or dry floodproof buildings. Dry floodproofing may include installing flood barriers. Wet or dry floodproofing may include nature-based solutions such as rain gardens, bioswales, constructed or restored wetlands that reduce flood risk. Nature-based solutions used alone however do not provide wet or dry floodproofing.

C. Footings: Where spread footings have been undercut by scour, underpin footings.

D. Siding: Replace with a stronger siding to prevent future disaster damage (e.g., wind, wildfire) with stronger attachments to the wall sheathing and structure.

E. Vents: Replace with water-resistant vents.

F. Non-structural building components: Brace interior walls, partitions, parapets, anchor veneer or cladding, suspended light features, drop ceilings, soffits, and other non-structural elements that could collapse and cause injury or block safe exit of a building during an earthquake or high-wind event.

G. Furnishings: Provide seismic ties, straps, or clips to secure replaced furniture, cabinets, computers, bookcases, and other furnishings.

H. For buildings and structures outside of the wildland-urban interface (where FEMA building code policy already requires these mitigation measures), create defensible space around facilities or structures with wildfire risk by removing or reducing the volume of flammable vegetation. The volume of vegetation should be minimized (e.g., hardscaping) by thinning or replacing flammable vegetation with less flammable, non-invasive species. Less flammable vegetation includes high-moisture plants, trees with low sap or resin content, plants with thick leaves, and drought tolerant vegetation. Native species are preferable as non-native options are less likely to withstand weather conditions, creating a fire risk.

I. For buildings and structures outside of the wildland-urban interface (where FEMA building code policy already requires these mitigation measures), non-combustible construction materials: Replace and upgrade construction materials with non-combustible alternatives for facilities with wildfire risk.

J. Roofs:

1. Install hurricane clips, fasteners, anchors, straps, and connectors that are compatible with the roof system and corrosion-resistant in coastal areas.

2. Strengthen the high-wind pressure areas (e.g., corner zones, roof soffits, overhangs).
3. Strengthen roof openings, such as hatches and skylights.
4. Low slope roofs: Replace and upgrade materials for entire roof covering with a fully adhered roof covering, such as a modified bitumen membrane roof. FEMA does not provide PA mitigation funding for loose laid insulation or membranes as punctures can cause large amounts of water intrusion. Additionally, FEMA does not provide PA mitigation funding for loose laid roof membranes with loose ballast stones as the stones can become projectiles in high winds and cause damage.
5. Gable roofs: Replace and upgrade materials for the gable-end framing with hipped roof framing to reduce wind forces (lower edge pressure; reduced projected wind area) and strengthen the roof framing.
6. Gutters and downspouts: Upgrade to direct water away from the structure to prevent interior or basement water damage.

K. Doors and Windows:
1. Upgrade the weather stripping to prevent water infiltration.
2. Replace doors, door frames, hinges, and hardware with wind-resistant units.
3. Strengthen windows.
4. Replace glass with impact-resistant material.
5. Install shutters on windows:
   a. Of critical facilities, such as hospitals.
   b. On the lower floors of noncritical facilities most likely to be struck by debris.
   c. Of buildings with very high-value contents that can be damaged by water (such as libraries and document centers).
   d. Of buildings when failure of roofing materials or other portions of nearby structures could create impact hazards.

L. Replace impervious paved surfaces with permeable pavement alternatives. Alternatives include permeable concrete, porous asphalt, permeable interlocking pavers, plastic grid pavers, or other systems that enable water infiltration while maintaining structural integrity. Permeable pavement projects should include aggregate and geotextile fabric layers to meet project-specific requirements such as desired storage capacity, pavement strength, or subgrade composition. [531]

M. Construct new or install pre-fabricated tornado or hurricane safe room. Safe rooms must be part of the footprint of the facility that is being repaired due to damage caused by the declared incident. Safe Rooms should provide life safety protection and be designed to meet the design and construction criteria in *Safe Rooms for Tornadoes and Hurricanes* (FEMA P-361)[532].

IX. Signage

A. Replace sign panels and their supports with a stronger type of system of supports and panels. Consider using multiple support posts and stronger panels and fasteners.

[531] For more information, refer to: Stormwater Best Management Practice. Permeable Pavements | epa.gov.
[532] For more information, refer to: *Safe Rooms for Tornadoes and Hurricanes* (FEMA P-361).

Appendix K: Snow Declarations

For eligibility to be considered, the STT must request and be issued a major disaster declaration that must include a request for snow assistance as part of that declaration. Snow related activities are not eligible under Emergency Declarations. Snow-related activities, including snow removal, de-icing, salting, snow dumps, and sanding of roads and other eligible facilities, is only an eligible emergency protective measure when a winter storm results in record or near-record snowfall.[533] FEMA considers near record as being within 10 percent of the record snowfall. FEMA authorizes snow assistance by county based on a finding that the county received record or near-record snowfall or meets the contiguous county criteria as described below. FEMA evaluates Tribal Nation lands either as part of a requested county or separately.

I. Record or Near-Record Snowfall

FEMA utilizes data collected by the National Oceanic and Atmospheric Administration's National Centers for Environmental Information (NCEI) to identify the historical 1-, 2-, and 3-day snowfall records for each county. For current event snowfall, FEMA relies primarily on snowfall measurements taken at National Weather Service (NWS) Cooperative Network Stations but accepts measurements from other sources if those measurements are verified as reasonable and accurate by the NWS. Historical 1-, 2-, and 3-day snowfall records by county[534] and daily snowfall reports by county[535] are available on the NCEI Snow Climatology Database (SCDB). FEMA follows the following process to determine record or near-record snowfalls:

- Compare current snowfall amounts with the historical record snowfall amounts for a like number of days without regard for the month in which the record snowfall or current event occurred.
- For multiple-day snowstorms, counties or Tribal Nation lands that meet the 1-day record or near-record requirement on any 1 day, or the 2-day record or near record over 2 consecutive days, or the 3-day record or near record over 3 consecutive days, etc., meets the record or near-record criteria for that county or tribal lands.
- FEMA relies on the NWS to determine the duration of the snowstorm.
- When data from multiple NWS-verified sources exist within a county or Tribal Nation lands, FEMA compares the highest current event snowfall reported by the NWS within that county or Tribal Nation land with the highest historical record snowfall for that county or Tribal Nation land. In counties with multiple recording stations, the observed/recorded snowfall measurements demonstrating a record or near record storm must correspond to a single reporting station not an average or combination of measurement across multiple reporting stations within a county.
- For counties or Tribal Nation lands that do not have NCEI or NWS historical record snowfall data, use the historical record from the nearest NWS Cooperative Network Station in an adjacent county or Tribal Nation land, even if located in an adjacent state, for determining historical snowfall records.

[533] 44 Code of Federal Regulations (C.F.R.) § 206.227.
[534] For more information, refer to: Snowfall Extremes | National Centers for Environmental Information (NCEI) | noaa.gov.
[535] For more information, refer to: Daily U.S. Snowfall and Snow Depth | National Centers for Environmental Information (NCEI) | noaa.gov.

- If current event snowfall data are not available from the NWS for a county or Tribal Nation land, use the nearest NWS Cooperative Network Station data from an adjacent county, even if located in an adjacent state.
- FEMA may designate a county or Tribal Nation land that does not receive a record or near-record snowfall but is contiguous to a county (generally referred to as a "core county") that does receive a record or near-record snowfall, for snow assistance if the county or Tribal Nation land has current event snowfall that meets or exceeds the current event snowfall of the core county, to which it is contiguous. Base this comparison on the highest current event snowfall received by each county as reported by the NWS.
- Consider counties or Tribal Nation areas that experience snowfalls occurring over a period exceeding 3 consecutive days that do not reach record or near-record snowfalls during a 3-day period, and for which there are no historical snowfall records for a period exceeding 3 days with NCEI or NWS, on a case-by-case basis.



Terminology

A **core county** is a county that has a record or near record snowfall with PA costs that exceed the annually established countywide per capita impact indicator and is designated for snow assistance under a major disaster declaration.

A **contiguous county** is a county in the same state that shares a common border with a core county without geographic separation other than by a minor body of water, typically not exceeding one mile between the land areas of such counties.

II. Winter Storm or Snowstorm Declaration Requests

The request for a major disaster declaration must include a request for snow assistance as part of that declaration. All such requests are subject to the requirements and processes established in the Stafford Act and FEMA regulations.[536] In addition to the information required in every declaration request, requests for snow assistance must include the following information:

- Identification of core and contiguous counties for which a snowstorm declaration is requested;
- Duration of snowfall, as identified or confirmed by the NWS; and,
- For each requested county or tribal land, daily snowfall totals from NWS stations or NWS-verified sources and historical record snowfall data from the NCEI.

Generally, the current event weather and snowfall information is included in a statement or report from the NWS describing the event. FEMA only includes costs related to snow activities as part of the preliminary damage assessment data for counties or tribal lands that meet the record or near-record criteria or qualify as contiguous counties. Other categories of work, including permanent work, may be authorized for snowstorm or winter storm declarations as appropriate.

[536] 44 C.F.R. § 206 Subpart B (206.31–48).

Appendix L: Validation of Applicant-Provided Cost Estimates

This appendix provides a checklist that FEMA PA staff must use to review and validate cost estimates submitted to FEMA for large permanent work projects. FEMA staff may also use relevant portions of this checklist for emergency work.

The steps for validating applicant-provided cost estimates are as follows:

1. **Verify that the estimate:**

☐ Is prepared by a licensed professional engineer or other estimating professional, such as a licensed architect or certified professional cost estimator[537] who certifies that the estimate was prepared in accordance with industry standards;

☐ Includes certification that the estimated cost directly corresponds to the repair of the agreed upon damage;

☐ Is based on unit costs for each component of the scope of work and not a lump sum amount; and,

☐ Contains a level of detail sufficient for FEMA to validate that all components correspond with the agreed-upon scope of work.

2. **Review the scope of work and cost estimate to verify only eligible items are included.**

☐ The scope of work items in the cost estimate are required based on the agreed-upon damage description and dimensions.

☐ The scope of work included ineligible items, and FEMA has removed the ineligible components from the estimate. Documentation detailing the components removed and reason for removal is attached.

☐ The scope of work included ineligible items, and FEMA is returning the estimate to the applicant to revise.

3. **Determine whether unit costs are from an approved source of industry standard information and whether current cost data publications were used.[538]**

☐ The applicant used the following appropriate cost estimating resource(s):

  ☐ Industry standard construction cost estimating resource(s):

[537] In lieu of a license or certification, an individual with professional experience and proficiency in the field of cost estimating may prepare and sign the cost estimate.
[538] There are numerous sources that may be used in the preparation of cost estimates.

- ☐ RSMeans
- ☐ XActimate
- ☐ BNi Costbooks
- ☐ Marshall & Swift
- ☐ "Sweet's Unit Cost Guide"
- ☐ Other_____

☐ Local cost data from_____

☐ Contract unit costs from recently completed projects.

☐ Other: _____

☐ FEMA returned the estimate to the applicant to revise as the applicant did not use an appropriate cost estimate resource.

4. Determine the components of unit costs.[539]

☐ The estimate contained sufficient information related to the components of the unit costs:

- ☐ Each unit cost represented a complete and in-place cost that included all labor, equipment, materials, small tools, incidentals, and hauling costs necessary to complete that element of work.
- ☐ Unit costs were analyzed to determine if general contractor overhead and profit were included in the unit costs:
  - ☐ Both general contractor and subcontractor overhead and profit are included in the unit costs and these costs are not duplicated elsewhere in the estimate or in the Cost Estimating Format (CEF).
  - ☐ Overhead and profit are not included in the unit costs.
  - ☐ Overhead and profit are duplicated in the estimate.
  - ☐ Costs for surveying, construction inspection, and permit compliance fees are not duplicated (i.e., not included within a unit cost and separately in the estimate).

[539] Ensure that the components that make up the unit costs are fully understood. The purpose of this review is to ensure that components of the unit costs are not duplicated elsewhere in the cost estimate.

☐ The estimate did not contain sufficient information related to the components of the unit costs. FEMA requested additional information from the applicant.

5. Validate the cost estimate for completeness and reasonableness.

☐ The costs of work items are reasonable based on a representative sample.

☐ FEMA has determined costs for items of work in the estimate to be unreasonable (see attached). Therefore, the estimate was returned to applicant to revise.

☐ All items of work included in the cost estimate are eligible.

☐ FEMA has removed ineligible items of work from the cost estimate (see attached).

☐ All work activities required to complete the work are quantified with unit costs.

☐ The cost estimate included lump sum amounts for work activities that need to be adjusted to unit prices. FEMA has returned the estimate to the applicant for revision.

☐ The appropriate locality adjustment factor from the cost estimating publication is used for each line item, as applicable. Where historical costs were used, a locality adjustment was not applied, but cost escalation factors were added.

☐ The appropriate locality adjustment factor from the cost estimating publication was not used (see attached) or, as historical costs were used, a locality adjustment was inappropriately applied.

☐ The following cost items are each within 10 percent of either 1) the local average weighted unit prices or 2) industry standard construction cost data:

  ☐ At least six of the ten largest cost items (or all cost items if there are less than ten), reviewed individually; and,

  ☐ At least 25 percent of the remaining cost items.

☐ Cost items checked are not within 10 percent of the local average weighted unit prices or industry standard construction cost data; therefore, the estimate was returned to applicant to revise.

Date Review Completed _____

Date of Information Requests to Applicant _____

Name of Reviewer _____

Reviewer Signature _____

Appendix M. Consensus-Based Codes, Specifications, and Standards

The most recent edition of codes, specifications, and standards from the following organizations, as published at the time of the disaster declaration, will be applied to the design and construction of certain facilities (currently limited to buildings, electrical power, roads, bridges, drinking water, and wastewater). FEMA may issue updates to these codes in a separate document before the version 6 release of the "Public Assistance Program and Policy Guide" (PAPPG).

These codes, specifications, and standards apply only to the repair and replacement of disaster-damaged elements and facilities. This appendix does not make costs for regular operations and maintenance eligible for assistance.

Eligible building projects that involve substantial improvement or new construction in flood hazard areas must meet the minimum floodproofing or elevation standards set out in 44 C.F.R. § 9.11(d), or the standards of the International Code Council (e.g., International Building Code, International Existing Building Code, International Energy Conservation Code, or International Residential Code), whichever requirement is stricter.

When triggered by these FEMA-identified codes, specifications, and standards, applicants must include the latest applicable criteria, including but not limited to the following:

- In areas where tornado shelter design wind speeds are 250 mph or greater, the Applicant must incorporate a storm shelter or safe room (designed to International Code Council (ICC) 500 standards) for elementary and secondary schools with an occupant load of 50 or more, Emergency Operations Centers (EOCs), 911 call stations, fire stations, rescue stations, ambulance stations, and police stations.
- Concerning requirements for wind, seismic, flood, temperature, ice and snow, and wildfire the Applicant must incorporate applicable design and construction standards contained in the International Building Code (IBC), International Existing Building Code (IEBC), International Residential Code (IRC) and their referenced standards [e.g., American Society of Civil Engineers (ASCE)/Structural Engineering Institute (SEI) 7; 24 and 41], and International Wildland-Urban Interface Code (IWUIC).

Quick reference tables covering the application of codes, specifications, and standards to structural building components (Table 1) and non-structural building components (Table 2) can be found in the *Consensus-Based Codes, Specifications and Standards for Public Assistance* Frequently Asked Questions,[540] along with a table of the NFIP technical bulletins and their areas of applicability (Table 3). The FAQs also contain reference tables specific to potable water facilities, wastewater facilities, roads and bridges and electric power facilities.

[540] For more information, refer to: Section 1235(b) | Consensus-Based Codes and Standards | FEMA.gov.

Table 46. Standard Setting Organization and Consensus-Based Codes, Specifications, and Standards by Facility Type

Facility Type	Standard Setting Organization and Consensus-Based Codes, Specifications and Standards
Buildings	▪ **American Concrete Institute (ACI):** ACI 318-19, "Building Code Requirements for Reinforced Concrete; ACI 301 Specifications for Concrete Construction; ACI 318, Building Code Requirements for Structural Concrete and Commentary ▪ **American Institute of Steel Construction (AISC):** AISC 325, Steel Construction Manual; ANSI/AISC 303, Code of Standard Practice for Steel Buildings and Bridges; ANSI/AISC 360, Specification for Structural Steel Buildings; ANSI/AISC 341, Seismic Provisions for Structural Steel Buildings ▪ **American Iron and Steel Institute (AISI):** AISI S100, North American Specification for the Design of Cold-formed Steel Structural Members ▪ **American National Standards Institute and FM Approvals (ANSI/FM Approvals):** ANSI/FM Approvals 2510-2020, American National Standard for Flood Mitigation Equipment ▪ **American Society of Civil Engineers (ASCE):** ASCE 24, Flood Resistant Design and Construction; ASCE 41, Seismic Evaluation and Retrofit of Existing Buildings; ASCE/SEI 7, Minimum Design Loads and Associated Criteria for Buildings and Other Structures; ASCE 8, Standard Specification for the Design of Cold-formed Stainless-Steel Structural Members; ASCE 49, Wind Tunnel Testing for Buildings and Other Structures ▪ **American Society Mechanical Engineers (ASME):** ASME/A17.1/CSA B44-16, Safety Code for Elevators and Escalators ▪ **American Society of Testing and Materials (ASTM):** ASTM E1886, Standard Test Method for Performance of Exterior Windows, Curtain Walls, Doors and Impact Protective Systems Impacted by Missile(s) and Exposed to Cyclic Pressure Differentials; ASTM E1996, Specification for Performance of Exterior Windows, Curtain Walls, Doors and Impact Protective Systems Impacted by Windborne Debris in Hurricanes ▪ **American Wood Council (AWC):** NDS, National Design Specification (NOS) for Wood Construction-with NOS Supplement ▪ **American Welding Society (AWS):** AWS D1.4/D1.4M Structural Welding Code-Reinforcing Steel ▪ **Facilities Guideline Institute (FGI):** (FGI), Guidelines for Design and Construction of Hospitals/Outpatient ▪ **International Association of Plumbing and Mechanical Officials (IAPMO):** IAPMO UMC Uniform Plumbing Code, UPC Uniform Mechanical Code ▪ **International Code Council (ICC):** International Building Code (IBC); International Existing Building Code (IEBC); International Residential Code (IRC); International Energy Conservation Code (IECC); International Wildland-Urban Interface Code (IWUIC); International Plumbing Code (IPC); International Mechanical Code (IMC); International Fire Code (IFC); ICC 500, International Fire Code (IFC); ICC A117.1, ICC/NSSA Standard on the Design and Construction of Storm Shelters; ICC 600, Standard for Residential Construction in High-wind Regions

Facility Type	Standard Setting Organization and Consensus-Based Codes, Specifications and Standards
	▪ **National Association of Architectural Metal Manufacturers (NAAMM):** NAAMM FP 1001, Guide Specifications for Design of Metal Flag Poles ▪ **National Fire Protection Association (NFPA):** NFPA 70, National Electrical Code (NEC); NFPA 1142, Standard on Water Supplies for Suburban and Rural Firefighting; NFPA 1144, Standard for Reducing Structure Ignition Hazards from Wildland Fire ▪ **Steel Joist Institute (SJI):** SJI 100 Standard Specification Load Tables and Weight Tables for Steel Joists and Joist Girders K-Series, Series, DHL-Series, Joist Girders; SJI 200, Standard Specification for Composite Steel Joists, CJ-Series ▪ **The Aluminum Association (TAA):** ADM1, Aluminum Design Manual, Part 1 - A Specification for Aluminum Structures ▪ **The Masonry Society (TMS):** TMS 402, Building Code for Masonry Structures; TMS 602, Specification for Masonry Structures ▪ **Timber Piling Council (TPC):** TPC, Timber Pile Construction
Electric Power	▪ **American Society of Civil Engineers (ASCE):** ASCE MOP 74 Guidelines for Electrical Transmission Line Structural Loading; ASCE 48 Design of Steel Transmission Pole Structures ▪ **Institute of Electrical and Electronics Engineers:** IEEE 1527, Recommended Practice for the Design of Busywork Located in Seismic Active Areas; IEEE 693 Recommended Practice for Seismic Design of Substations ▪ **U.S. Department of Agriculture Rural Electric Service (RUS):** RUS Bulletins Transmission - 1724E-200, 1724E-204, 1724E-206, 1724E-214, 1724E-216, 1724E-224, 1724E-226, 1724E-300, 1728F-803, 1728F-804, 1728F-806, 1728F-810, 1728F-811, 1728H-701
Roads and Bridges	▪ **American Association of State Highway and Transportation Officials (AASHTO):** A Policy on Geometric Design of Highways and Streets; Standard Specifications for Highway Bridges; LRFD Bridge Construction Specifications; LRFD Bridge Design Specifications; LRFD Movable Highway Bridge Design Specifications; AASHTO/AWS D1.5M/D1.5 Bridge Welding Code,; LRFD Guide Specifications for Accelerated Bridge Construction; Guide Specifications for LFRD Seismic Bridge Design; Guide Specifications for Design of Bonded FRP Systems for Repair or Strengthening of Concrete Bridge Elements; Guide Specifications for Design and Construction of Segmental Concrete Bridges, Guide Specifications for Wind Loads on Bridges During Construction; Guidelines for Geometric Design of Low-Volume Local Roads; M288 Standard Specifications for Geosynthetic Specifications for Highway Applications; Manual on Uniform Traffic Control (MUTCD) ▪ **American Concrete Institute (ACI):** ACI-548.10Specification for Type MMS (Methyl Methacrylate Slurry) Polymer Overlays for Bridge and Parking Garage Decks; ACI-548.8 - Specification for Type EM (Epoxy Multi-Layer) Polymer Overlay for Bridge and Parking Garage Decks; ACI-548.9 - Specification for Type ES (Epoxy Slurry) Polymer Overlays for Bridge and Parking Garage Decks ▪ **FAA AC150/5300 Airport Design**

Facility Type	Standard Setting Organization and Consensus-Based Codes, Specifications and Standards
Potable Water	▪ **American Society of Testing and Materials (ASTM):** ASTM-F-480-17, Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension Ratios (SDR) ▪ **National Fire Protection Association (NFPA):** 1141 Standard for Fire Protection for Land Development in Wildland, Rural, and Suburban Areas ▪ **National Standards Foundation (NSF):** NSF Standard 14, Plastic Piping System Components and Related Materials. NSF Standard 61, Drinking Water System Components – Health Effects ▪ **Great Lakes Upper Mississippi River Board of Provincial Public Health and Environmental Managers:** Recommended Standards for Water Works
Wastewater	▪ **American Society of Testing and Materials (ASTM):** ASTM D-2321-18, Standard Practice for Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity Flow Installations; ASTM F-1417, Standard Practice for Installation Acceptance of Plastic Gravity Sewer Lines Using Low-Pressure Air; ASTM C-12, Standard Practice for Installing Vitrified Clay Pipe Lines; ASTM C- 828, Standard Test Method for Low Pressure Air Test of Vitrified Clay Pipe Lines; ASTM C-478, Standard Specification for Circular Precast Reinforced Manhole Sections; ASTM C-1244, Standard Test Method for Concrete Sewer Manholes Negative Air Pressure (Vacuum) Test Prior to Backfill ▪ **Great Lakes Upper Mississippi River Board of Provincial Public Health and Environmental Managers:** Recommended Standards for Wastewater Facilities

KeyCite Yellow Flag - Negative Treatment
Declined to Follow by Connell v. Superior Court, Cal.App. 3 Dist., November 20, 1997

190 Cal.App.3d 521, 234 Cal.Rptr. 795

CARMEL VALLEY FIRE PROTECTION DISTRICT et al., Plaintiffs and Respondents,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.
RINCON DEL DIABLO MUNICIPAL WATER DISTRICT et al., Plaintiffs and Respondents,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.
COUNTY OF LOS ANGELES, Plaintiff and Respondent,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.

No. B006078., No. B011941., No. B011942.
Court of Appeal, Second District, Division 5, California.
Feb 19, 1987.

SUMMARY

The trial court, in separate proceedings brought by three counties against the state for reimbursement of funds expended by the counties in complying with a state order to provide protective clothing and equipment for county fire fighters, issued writs of mandate compelling the state to reimburse the counties. Previously, the counties had filed test claims with the State Board of Control for reimbursement of similar expenses. The board determined that there was a state mandate and the counties should be reimbursed. The state did not seek judicial review of the board's decision. Thereafter, a local government claims bill, Sen. Bill No. 1261 (Stats. 1981, ch. 1090, p. 4191) was introduced to provide appropriations to pay some of the counties' claims for the state-mandated costs. After various amendments, the legislation was enacted into law without the appropriations. The counties then sought reimbursement by filing petitions for writs of mandate and complaints for declaratory relief. (Superior Court of Los Angeles County, No. C437471, Norman L. Epstein, Judge; No. C514623 and No. C515319, Jack T. Ryburn, Judge.) *522

In a consolidated appeal, the Court of Appeal affirmed with certain modifications. It held that, by failing to seek judicial review of the board's decision, the state had waived its right to contest the board's finding that the counties' expenditures were state mandated. Similarly, it held that the state was collaterally estopped from attacking the board's findings. It also held that the executive orders requiring the expenditures constituted the type of "program" that is subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6. The court also held that the trial courts had not ordered an appropriation in violation of the separation of powers doctrine, and that the trial courts correctly determined that certain legislative disclaimers, findings, and budget control language did not exonerate the state from its constitutionally and statutorily imposed obligation to reimburse the counties' state-mandated costs. Further, the court held that the trial courts properly authorized the counties to satisfy their claims by offsetting fines and forfeitures due to the state, and that the counties were entitled to interest. (Opinion by Eagleson, J., with Ashby, Acting P. J., and Hastings, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b)
Estoppel and Waiver § 23--Waiver--Trial and Appeal--Failure to Seek Judicial Review of Administrative Decision--Waiver of Right to Contest Findings.
In a proceeding by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state waived its right to contest findings made by the State Board of Control in a previous proceeding. The board found that the costs were state-mandated and that the county was entitled to reimbursement. The state failed to seek judicial review of the board's decision, and the statute of limitations applicable to such review had passed. Moreover, the state, through its agents, had acquiesced in the board's findings by seeking an appropriation to satisfy the validated claims, which, however, was rebuffed by the Legislature.

(2)
Estoppel and Waiver § 19--Waiver--Requisites.

Waiver occurs where there is an existing right; actual or constructive knowledge of its existence; and either an actual intention to relinquish it, or conduct so inconsistent with an intent to enforce the right as to induce a reasonable ***523** belief that it has been waived. A right that is waived is lost forever. The doctrine of waiver applies to rights and privileges afforded by statute.

[See **Cal.Jur.3d,** Estoppel and Waiver § 21; **Am.Jur.2d,** Estoppel and Waiver § 154.]

(3a, 3b, 3c, 3d)
Judgments § 81--Res Judicata--Collateral Estoppel--County's Action for Reimbursement of State-mandated Costs--Findings of State Board of Control.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state was collaterally estopped from attacking the findings made, in a previous proceeding, by the State Board of Control that the costs were state-mandated and that the county was entitled to reimbursement. The issues were fully litigated before the board. Similarly, although the state was not a party to the board hearings, it was in privity with those state agencies which did participate. Moreover, a determination of conclusiveness would not work an injustice.

(4)
Judgments § 81--Res Judicata--Collateral Estoppel--Elements.
In order for the doctrine of collateral estoppel to apply, the issues in the two proceedings must be the same, the prior proceeding must have resulted in a final judgment on the merits, and the parties or their privies must be involved.

(5)
Judgments § 84--Res Judicata--Collateral Estoppel--Identity of Parties--Privity--Governmental Agents.
The agents of the same government are in privity with each other for purposes of collateral estoppel, since they represent not their own rights but the right of the government.

(6)
Judgments § 96--Res Judicata--Collateral Estoppel--Matters Concluded-- Questions of Law.
A prior judgment on a question of law decided by a court is conclusive in a subsequent action between the same parties where both causes involved arose out of the same subject matter or transaction, and where holding the judgment to be conclusive will not result in an injustice.

(7)
State of California § 11--Fiscal Matters--Reimbursement to County for State-mandated Costs--New Programs.
A "new program," for purposes of determining whether the program is subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6, is one which carries out the governmental function of providing services ***524** to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.

(8)
State of California § 7--Actions--Reimbursement of County Funds for State-mandated Costs--New Programs.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with state executive orders to provide protective clothing and equipment to county fire fighters, the trial court properly determined that the executive orders constituted the type of "new program" that was subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6. Fire protection is a peculiarly governmental function. Also, the executive orders manifest a state policy to provide updated equipment to all fire fighters, impose unique requirements on local governments, and do not apply generally to all residents and entities in the state, but only to those involved in fire fighting.

(9)
Constitutional Law § 37--Doctrine of Separation of Powers--Violations of Doctrine--Judicial Order of Appropriation.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the trial court's judgment granting the writ was not in violation of the separation of powers doctrine. The court order did not directly compel the Legislature to appropriate funds or to pay funds not yet appropriated, but merely affected an existing appropriation.

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(10)
Constitutional Law § 40--Distribution of Governmental Powers--Between Branches of Government--Judicial Power and Its Limits--Order Directing Treasurer to Pay on Already Appropriated Funds.
Once funds have been appropriated by legislative action, a court transgresses no constitutional principle when it orders the State Controller or other similar official to make appropriate expenditures from such funds. Thus, a judgment which ordered the State Controller to draw warrants and directed the State Treasurer to pay on already-appropriated funds permissibly compelled performance of a ministerial duty.

(11)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to County for State-mandated Costs.
Appropriations affected by a court order need not specifically refer to the particular expenditure in question in order to be available. Thus, in a proceeding brought by a county for a writ of mandate to compel reimbursement ***525** by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the funds appropriated for the Department of Industrial Relations for the prevention of industrial injuries and deaths of state workers were available for reimbursement, despite the fact that the funds were not specifically appropriated for reimbursement. The funds were generally related to the nature of costs incurred by the county.

(12a, 12b)
Fires and Fire Districts § 2--Statutes and Ordinances--County Compliance With State Executive Order to Provide Protective Equipment--Federal Mandate.
A county's purchase of protective clothing and equipment for its fire fighters was not the result of a federally mandated program so as to relieve the state of its obligation (Cal. Const., art. XIII B, § 6) to reimburse the county for the cost of the purchases. The county had made the purchase in compliance with a state executive order. The federal government does not have jurisdiction over local fire departments and there are no applicable federal standards for local government structural fire fighting clothing and equipment. Hence, the county's obedience to the state executive orders was not federally mandated.

(13)
Statutes § 20--Construction--Judicial Function--Legislative Declarations.
The interpretation of statutory language is purely a judicial function. Legislative declarations are not binding on the courts and are particularly suspect when they are the product of an attempt to avoid financial responsibility.

(14a, 14b)
Statutes § 10--Title and Subject Matter--Single Subject Rule.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters (Cal. Admin. Code, tit. 8, §§ 3401-3409), the trial court properly invalidated, as violating the single subject rule, the budget control language of Stats. 1981, ch. 1090, § 3. The express purpose of ch. 1090 was to increase funds available for reimbursing certain claims. The budget control language, on the other hand, purported to make the reimbursement provisions of Rev. & Tax. Code, § 2207, and former Rev. & Tax. Code, § 2231, unavailable to the county. Because the budget control language did not reasonably relate to the bill's stated purpose, it was invalid.

(15)
Statutes § 10--Title and Subject Matter--Single Subject Rule.
The single subject rule essentially requires that a statute have only one subject matter and that the subject be clearly expressed in a statute's ***526** title. The rule's primary purpose is to prevent "logrolling" in the enactment of laws, which occurs where a provision unrelated to a bill's main subject matter and title is included in it with the hope that the provision will remain unnoticed and unchallenged. By invalidating these unrelated clauses, the single subject rule prevents the passage of laws which might otherwise not have passed had the legislative mind been directed to them. However, in order to minimize judicial interference in the Legislature's activities, the single subject rule is to be construed liberally. A provision violates the rule only if it does not promote the main purpose of the act or does not have a necessary and natural connection with that purpose.

(16)
Statutes § 5--Operation and Effect--Retroactivity--Reimbursement to County for State-mandated Costs.
The budget control language of Stats. 1981, ch. 1090, § 3, which purported to make the reimbursement provisions of

Rev. & Tax. Code, § 2207 and former Rev. & Tax. Code, § 2231, unavailable to a county seeking reimbursement (Cal. Const., art. XIII B, § 6) for expenditures made in purchasing state-required protective clothing and equipment for county fire fighters (Cal. Admin. Code, tit. 8, §§ 3401-3409), was invalid as a retroactive disclaimer of the county's right to reimbursement for debts incurred in prior years.

(17)
State of California § 13--Fiscal Matters--Limitations on Disposal-- Reimbursement to Counties for State-mandated Costs.
The budget control language of § 28.40 of the 1981 Budget Act and § 26.00 of the 1983 and 1984 Budget Acts did not exonerate the state from its constitutional and statutory obligations to reimburse a county for the expenses incurred in complying with a state mandate to purchase protective clothing and equipment for county fire fighters. The language was invalid in that it violated the single subject rule, attempted to amend existing statutory law, and was unrelated to the Budget Acts' main purpose of appropriating funds to support the annual budget.

(18)
Constitutional Law § 4--Legislative Power to Create Workers' Compensation System--Effect on County's Right to Reimbursement.
Cal. Const., art. XIV, § 4, which vests the Legislature with unlimited plenary power to create and enforce a complete workers' compensation system, does not affect a county's right to state reimbursement for costs incurred in complying with state-mandated safety orders.

(19)
Constitutional Law § 7--Mandatory, Directory, and Self-executing Provisions--Subvention Provisions--County Reimbursement for State-mandated Costs.
The subvention provisions of Cal. Const., art. XIII B, § 6, operate so as to require the state to reimburse counties for ***527** state-mandated costs incurred between January 1, 1975, and June 30, 1980. The amendment, which became effective on July 1, 1980, provided that the Legislature "may, but need not," provide reimbursement for mandates enacted before January 1, 1975. Nevertheless, the Legislature must reimburse mandates passed after that date, even though the state did not have to begin reimbursement until the effective date of the amendment.

(20)
Mandamus and Prohibition § 5--Mandamus--Conditions Affecting Issuance--Exhaustion of Administrative Remedies--County Reimbursement for State-mandated Costs.
A county's right of action in traditional mandamus to compel reimbursement for state-mandated costs did not accrue until the county had exhausted its administrative remedies. The exhaustion of remedies occurred when it became unmistakably clear that the legislative process was complete and that the state had breached its duty to reimburse the county.

(21)
Mandamus and Prohibition § 13--Mandamus--Conditions Affecting Issuance--Existence and Adequacy of Other Remedy.
A party seeking relief by mandamus is not required to exhaust a remedy that was not in existence at the time the action was filed.

(22a, 22b)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--County's Right to Offset Fines and Forfeitures Due to State.
In a proceeding by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment for county fire fighters, the trial court did not err in authorizing the county to satisfy its claims by offsetting fines and forfeitures due to the state. The order did not impinge upon the Legislature's exclusive power to appropriate funds or control budget matters.

(23)
Equity § 5--Scope and Types of Relief--Offset.
The right to offset is a long-established principle of equity. Either party to a transaction involving mutual debits and credits can strike or balance, holding himself owing or entitled only to the net difference. Although this doctrine exists independent of statute, its governing principle has been partially codified in Code Civ. Proc., § 431.70 (limited to cross-demands for money).

(24)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--State's Use of Statutory Offset Authority.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state ***528** order to provide protective clothing and equipment to county fire fighters, the trial court did not err in enjoining the exercise of the state's statutory offset authority (Gov. Code, § 12419.5) until the county was fully reimbursed. In view of the state's manifest reluctance to reimburse, and its otherwise unencumbered statutory right of offset, the trial court was well within its authority to prevent this method of frustrating the county's collection efforts from occurring.

(25)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--State's Right to Revert or Dissipate Undistributed Appropriations.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the trial court properly enjoined, and was not precluded by Gov. Code, § 16304.1, from enjoining, the state from directly or indirectly reverting the reimbursement award sum from the general fund line item accounts, and from otherwise dissipating that sum in a manner that would make it unavailable to satisfy the court's judgment in favor of the county.

(26)
Parties § 2--Indispensable Parties--County Auditor Controller--County Action to Collect Reimbursement From State.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the county auditor-controller was not an indispensable party whose absence would result in a loss of the trial court's jurisdiction. The auditor-controller was an officer of the county and was subject to the direction and control of the county board of supervisors. He was indirectly represented in the proceedings because his principal, the county, was the party litigant. Additionally, he claimed no personal interest in the action and his pro forma absence in no way impeded complete relief

(27)
Parties § 2--Indispensable Parties--Fines and Forfeitures--County Action to Collect Reimbursement From State.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for costs expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the funds created by the collected fines and forfeitures which the county was allowed to offset to satisfy its claims against the state were not "indispensable parties" to the litigation. The action was not an in rem proceeding, and the ownership of a particular stake was not in dispute. Complete relief could be afforded without including the specified funds as a party.

(28)
Interest § 4--Interest on Judgments--County Action for Reimbursement of State-mandated Costs--State Reliance on Invalid Statute.
An ***529** invalid statute voluntarily enacted and promulgated by the state is not a defense to its obligation to pay interest on damages under Civ. Code, § 3287, subd. (a). Thus, in an action brought by a county for writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state could not avoid its obligation to pay interest on the funds by relying on invalid budget control language which purported to restrict payment on reimbursement claims.

(29)
Appellate Review § 127--Review--Scope and Extent--Interpretation of Statutes.
An appellate court is not limited by the interpretation of statutes given by the trial court.

(30)
Appellate Review § 162--Determination of Disposition of Cause-- Modification--Action Against State--Appropriation.
In an action against the state, an appellate court is empowered to add a directive that the trial court order be modified to include charging orders against funds appropriated by subsequent budget acts.

COUNSEL
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EAGLESON, J.

These consolidated appeals arise from three separate trial court proceedings concerning the heretofore unsuccessful efforts of various local agencies to secure reimbursement of state-mandated costs.

Case No. 2d Civ. B006078 (Carmel Valley et al. case) was the first matter decided by the trial court. The memorandum of decision in that case was judicially noticed by the trial court which heard the consolidated matters in 2d Civ. B011941 (Rincon et al. case) and 2d Civ. B011942 (County of Los Angeles case). Issues common to all three cases will be discussed together ***530** under the County of Los Angeles appeal, while issues unique to the other two appeals will be considered separately.

We identify the parties to the various proceedings in footnote 1.[1] For literary convenience, however, we will refer to all appellants as the State and all respondents as the County unless otherwise indicated.

Appeal In Case No. 2 Civil B011942

(County of Los Angeles Case)

Facts and Procedural History

County employs fire fighters for whom it purchased protective clothing and equipment, as required by title 8, California Administrative Code, sections 3401-3409, enacted in 1978 (executive orders). County argues that it is entitled to State reimbursement for these expenditures because they constitute a state-mandated "new program" or "higher level of service." County relies on Revenue and Taxation Code section 2207[2] and former ***531** section 2231,[3] and California Constitution, article XIII B, section 6[4] to support its claim.

County filed a test claim with the State Board of Control (Board) for these costs incurred during fiscal years 1978-1979 and 1979-1980.[5] After hearings were held on the matter, the Board determined on November 20, 1979, that there was a state mandate and that County should be reimbursed. State did not seek judicial review of this quasi-judicial decision of the Board.

Thereafter, a local government claims bill, Senate Bill Number 1261 (Stats. 1981, ch. 1090, p. 4191) (S.B. 1261) was introduced to provide appropriations to pay some of County's claims for these state-mandated costs. This bill was amended by the Legislature to delete all appropriations for the payment of these claims. Other claims of County not provided for in S.B. 1261 were contained in another local government claims bill, Assembly Bill Number 171 (Stats. 1982, ch. 28, p. 51) (A.B. 171). The appropriations in this bill were deleted by the Governor. Both pieces of legislation, sans appropriations, were enacted into law.[6]

On September 21, 1984, following these legislative rebuffs, County sought reimbursement by filing a petition for writ of mandate (Code Civ. Proc., § 1085) and complaint for declaratory relief. After appropriate responses were filed and a hearing was held, the court executed a judgment on February 6, 1985, granting a peremptory writ of mandate. A writ of mandate was issued and other findings and orders made. It is from this judgment of ***532** February 6, 1985, that State appeals. The relevant portions of the judgment are set forth verbatim below.[7] ***533**

Contentions

State advances two basic contentions. It first asserts that the costs incurred by County are not state mandated because they are not the result of a "new program," and do not provide a "higher level of service." Either or both of these requirements are the sine qua non of reimbursement. Second, assuming a "new program" or "higher level of service" exists, portions of the trial court order aimed at assisting the reimbursement process were made in excess of the court's jurisdiction.

These contentions are without merit. We modify and affirm all three judgments.

Discussion

I

Issue of State Mandate

The threshold question is whether County's expenditures are state mandated. The right to reimbursement is triggered when the local agency incurs "costs mandated by the state"

in either complying with a "new program" or providing "an increased level of service of an existing program."[8] State advances many theories as to why the Board erred in concluding that these expenditures are state-mandated costs. One of these arguments is whether the executive orders are a "new program" as that phrase has been recently defined by our Supreme Court in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38, 729 P.2d 202]. ***534**

As we shall explain, State has waived its right to challenge the Board's findings and is also collaterally estopped from doing so. Additionally, although State is not similarly precluded from raising issues presented by the *State of California* case, we conclude that the executive orders are a "new program" within the meaning of article XIII B, section 6.

A. *Waiver*

(1a)We initially conclude that State has waived its right to contest the Board's findings. (2)Waiver occurs where there is an existing right; actual or constructive knowledge of its existence; and either an actual intention to relinquish it, or conduct so inconsistent with an intent to enforce the right as to induce a reasonable belief that it has has been waived. (*Medico-Dental etc. Co. v. Horton & Converse* (1942) 21 Cal.2d 411, 432 [132 P.2d 457]; *Loughan v. Harger-Haldeman* (1960) 184 Cal.App.2d 495, 502-503 [7 Cal.Rptr. 581].) A right that is waived is lost forever. (*L.A. City Sch. Dist. v. Landier Inv. Co*. (1960) 177 Cal.App.2d 744, 752 [2 Cal.Rptr. 662].) The doctrine of waiver applies to rights and privileges afforded by statute. (*People v. Murphy* (1962) 207 Cal.App.2d 885, 888 [24 Cal.Rptr. 803].)

(1b)State now contends to be an aggrieved party and seeks to dispute the Board's findings. However it failed to seek judicial review of that November 20, 1979 decision (Code Civ. Proc., § 1094.5) as authorized by former Revenue and Taxation Code section 2253.5. The three-year statute of limitations applicable to such review has long since passed. (*Green v. Obledo* (1981) 29 Cal.3d 126, 141, fn. 10 [172 Cal.Rptr. 206, 624 P.2d 256]; Code Civ. Proc., § 338, subd. 1.)

In addition, State, through its agents, acquiesced in the Board's findings by seeking an appropriation to satisfy the validated claims. (Former Rev. & Tax. Code, § 2255, subd. (a).) On September 30, 1981, S.B. 1261 became law. On February 12, 1982, A.B. 171 was enacted. Appropriations had been stripped from each bill. State did not then seek review of the Board determinations even though time remained before the three-year statutory period expired. This inaction is clearly inconsistent with any intent to contest the validity of the Board's decision and results in a waiver.

B. *Administrative Collateral Estoppel*

(3a)We next conclude that State is collaterally estopped from attacking the Board's findings. (4)Traditionally, collateral estoppel has been applied to bar relitigation of an issue decided in a prior court proceeding. In order for the doctrine to apply, the issues in the two proceedings must ***535** be the same, the prior proceeding must have resulted in a final judgment on the merits, and the same parties or their privies must be involved. (*People v. Sims* (1982) 32 Cal.3d 468, 484 [186 Cal.Rptr. 77, 651 P.2d 321].)

The doctrine was extended in *Sims* to apply to a final adjudication of an administrative agency of statutory creation so as to preclude relitigation of the same issues in a subsequent criminal case. Our Supreme Court held that collateral estoppel applies to such prior adjudications where three requirements are met: (1) the administrative agency acted in a judicial capacity; (2) it resolved disputed issues properly before it; and (3) all parties were provided with the opportunity to fully and fairly litigate their claims. (*Id.* at p. 479.) All of the elements of administrative collateral estoppel are present here.

(3b)The Board was created by the state Legislature to exercise quasi-judicial powers in adjudging the validity of claims against the State. (*County of Sacramento v. Loeb* (1984) 160 Cal.App.3d 446, 452 [206 Cal.Rptr. 626].) At the time of the hearings, the Board proceedings were the sole administrative remedy available to local agencies seeking reimbursement for state-mandated costs. (Former Rev. & Tax. Code, § 2250.) Board examiners had the power to administer oaths, examine witnesses, issue subpoenas, and receive evidence. (Gov. Code, § 13911.) The hearings were adversarial in nature and allowed for the presentation of evidence by the claimant, the Department of Finance, and any other affected agency. (Former Rev. & Tax. Code, § 2252.)

The record indicates that the state mandate issues in this case were fully litigated before the Board. A representative

of the state Division of Occupational Safety and Health and the Department of Industrial Relations testified as to why County's costs were not state mandated. Representatives of the various claimant fire districts in turn offered testimony contradicting that view. The proceedings culminated in a verbatim transcript and a written statement of the basis for the Board's decision.

State complains, however, that some of the traditional elements of the collateral estoppel doctrine are missing. In particular, State argues that it was not a party to the Board hearings and was not in privity with those state agencies which did participate.

(5)"[T]he courts have held that the agents of the same government are in privity with each other, since they represent not their own rights but the right of the government. [Fn. omitted.]" (*Lerner v. Los Angeles City Board of Education* (1963) 59 Cal.2d 382, 398 [29 Cal.Rptr. 657, 380 P.2d 97].) As we stated in our introduction of the parties in this case, the party ***536** known as "State" is merely a shorthand reference to the various state agencies and officials named as defendants below. Each of these defendants is an agent of the State of California and had a mutual interest in the Board proceedings. They are thus in privity with those state agencies which did participate below (e.g., Occupational Safety and Health Division).

It is also clear that even though the question of whether a cost is state mandated is one of law (*City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 781 [200 Cal.Rptr. 642]), subsequent litigation on that issue is foreclosed here. (6)A prior judgment on a question of law decided by a court is conclusive in a subsequent action between the same parties where both causes involved arose out of the same subject matter or transaction, and where holding the judgment to be conclusive will not result in an injustice. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 230 [123 Cal.Rptr. 1, 537 P.2d 1250]; *Beverly Hills Nat. Bank v. Glynn* (1971) 16 Cal.App.3d 274, 286-287 [93 Cal.Rptr. 907]; Rest.2d Judgments, § 28, p. 273.) [9]

(3d)Here, the basic issues of state mandate and the amount of reimbursement arose out of County's required compliance with the executive orders. In either forum—Board or court—the claims and the evidentiary and legal determination of their validity would be considered in similar fashion.

Furthermore, a determination of conclusiveness would not work an injustice. As we have noted, the Board was statutorily created to consider the validity of the various claims now being litigated. Processing of reimbursement claims in this manner was the only administrative remedy available to County. If we were to grant State's request and review the Board's determination de novo, we would, in any event, adhere to the well-settled principle of affording "great weight" to "the contemporaneous administrative construction of the enactment by those charged with its enforcement ...." (*Coca-Cola Co. v. State Bd. of Equalization* (1945) 25 Cal.2d 918, 921 [156 P.2d 1].)

There is no policy reason to limit the application of the collateral estoppel doctrine to successive court proceedings. In *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 679 [159 Cal.Rptr. 56], the doctrine was applied to bar relitigation in a subsequent civil proceeding of a zoning issue previously decided by a city board of permit appeals. We similarly hold that the questions of law decided by the Board are binding in all of the subsequent civil proceedings presented here. State therefore is collaterally ***537** estopped to raise the issues of state mandate and amount of reimbursement in this appeal.

C. *Executive Orders—A "New Program" Under Article XIII B, Section 6*

(7)The recent decision by our Supreme Court in *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d at p. 49 presents a new issue not previously considered by the Board or the trial court. That question is whether the executive orders constitute the type of "program" that is subject to the constitutional imperative of subvention under article XIII B, section 6. [10] We conclude that they are.

In *State of California*, the Court concluded that the term "program" has two alternative meanings: "programs that carry out the governmental function of providing services to the public, *or* laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state." (*Id.* at p. 56, italics added.) Although only one of these findings is necessary to trigger reimbursement, both are present here.

(8)First, fire protection is a peculiarly governmental function. (*County of Sacramento v. Superior Court* (1972) 8 Cal.3d 479, 481 [105 Cal.Rptr. 374, 503 P.2d 1382].) "Police and fire protection are two of the most essential and basic functions of local government." (*Verreos v. City and County of San Francisco* (1976) 63 Cal.App.3d 86, 107 [133 Cal.Rptr. 649].) This classification is not weakened by State's assertion that there are private sector fire fighters who are also subject to the executive orders. Our record on this point is incomplete because the issue was not presented below. Nonetheless, we have no difficulty in concluding as a matter of judicial notice that the overwhelming number of fire fighters discharge a classical governmental function. [11] ***538**

The second, and alternative, prong of the *State of California* definition is also satisfied. The executive orders manifest a state policy to provide updated equipment to all fire fighters. Indeed, compliance with the executive orders is compulsory. The requirements imposed on local governments are also unique because fire fighting is overwhelmingly engaged in by local agencies. Finally, the orders do not apply generally to all residents and entities in the State but only to those involved in fire fighting.

These facts are distinguishable from those presented in *State of California*. There, the court held that a state-mandated increase in workers' compensation benefits did not require state subvention because the costs incurred by local agencies were only an incidental impact of laws that applied generally to all state residents and entities (i.e., to all workers and all governmental and nongovernmental employers). Governmental employers in that setting were indistinguishable from private employers who were obligated through insurance or direct payment to pay the statutory increases.

State of California only defined the scope of the word "program" as used in California Constitution, article XIII B, section 6. We apply the same interpretation to former Revenue and Taxation Code section 2231 even though the statute was enacted much earlier. The pertinent language in the statute is identical to that found in the constitutional provision and no reason has been advanced to suggest that it should be construed differently. In any event, a different interpretation must fall before a constitutional provision of similar import. (*County of Los Angeles v. Payne* (1937) 8 Cal.2d 563, 574 [66 P.2d 658].)

II

Issue of Whether Court Orders Exceeded Its Jurisdiction

A. *The Court Has Not Ordered an Appropriation in Violation of the Separation of Powers Doctrine*

(9)State begins its general attack on the judgment by citing the longstanding principle that a court order which directly compels the Legislature to appropriate funds or to pay funds not yet appropriated violates the separation of powers doctrine. (Cal. Const., art. III, § 3; art. XVI, § 7; *Mandel v. Myers* (1981) 29 Cal.3d 531, 540 [174 Cal.Rptr. 841, 629 P.2d 935].) [12] State ***539** observes (and correctly so) that the relevant constitutional (art. XIII B, § 6) and statutory (Rev. & Tax. Code, § 2207 & former § 2231) provisions are not appropriations measures. (See *City of Sacramento v. California State Legislature* (1986) 187 Cal.App.3d 393, 398 [231 Cal.Rptr. 686].) Since State otherwise discerns no manifest legislative intent to appropriate funds to pay County's claims (*City & County of S. F. v. Kuchel* (1948) 32 Cal.2d 364, 366 [196 P.2d 545]), it concludes that the judgment unconstitutionally compels performance of a legislative act.

State further argues that the judiciary's ability to reach an existing agency-support appropriation (State Department of Industrial Relations) (fn. 7, ¶ 1, *ante*) has been approved in only two contexts. First, the court can order payment from an existing appropriation, the expenditure of which has been legislatively prohibited by an unconstitutional or unlawful restriction. (*Committee to Defend Reproductive Rights v. Cory* (1982) 132 Cal.App.3d 852, 856 [183 Cal.Rptr. 475].) Second, once an adjudication has finally determined the rights of the parties, the court may compel satisfaction of the judgment from a current unexpended, unencumbered appropriation which administrative agencies routinely have used for the purpose in question. (*Mandel v. Myers*, *supra.*, 29 Cal.3d at p. 544.) State insists that these facts are not present here.

County rejoins that a writ of traditional mandate (Code Civ. Proc., § 1085) is the correct method of compelling State to

perform a clear and present ministerial legal obligation. (*County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at pp. 451-452.) The ministerial obligation here is contained in California Constitution, article XIII B, section 6 and in Revenue and Taxation Code section 2207 and former section 2231. These provisions require State to reimburse local agencies for state-mandated costs.

We reject State's general characterization of the judgment by noting that it only affects an existing appropriation. It declares (fn. 7, ¶ 1, *ante*) that only funds already "*appropriated* by the Legislature for the State Department of Industrial Relations for the Prevention of Industrial Injuries and Deaths of California Workers within the Department's General Fund" shall be spent for reimbursement of County's state-mandated costs. (Italics added.) There is absolutely no language purporting to require the Legislature to enact appropriations or perform any other act that might violate separation of powers principles. (10)By simply ordering the State Controller to draw warrants and directing the State Treasurer to pay on already appropriated funds (fn. 7, ¶ 2, *ante*), the judgment permissibly compels performance of a ministerial duty: "[O]nce funds have already been appropriated by legislative action, a court transgresses no constitutional principle when it orders the State Controller or other similar official to make appropriate expenditures ***540** from such funds. [Citations.]" (*Mandel v. Myers*, *supra.*, 29 Cal.3d at p. 540.)

As we will discuss in further detail below, the subject funds (fn. 7, ¶ 1, *ante*)*ante*) were saddled with an unconstitutional restriction (fn. 7, ¶ 7, *ante*). However, *Mandel* establishes that such a restriction does not necessarily infect the entire appropriation. There, the Legislature had improperly prohibited the use of budget funds to pay a court-ordered and administratively approved attorney's fees award. The court reasoned that as long as appropriated funds were "reasonably available for the expenditures in question, the separation of powers doctrine poses no barrier to a judicial order directing the payment of such funds." (*Id.* at p. 542.) The court went on to find that money in a general "operating expenses and equipment" fund was, by both the Budget Act's terms and prior administrative practice, reasonably available to pay the attorney's fees award.

Contrary to State's argument, *Mandel* does not require that past administrative practice support a judgment for reimbursement from an otherwise available appropriation. Although there was evidence of a prior administrative practice of paying counsel fees from funds in the "operating expenses and equipment" budget, this fact was not the main predicate of the court's holding. Rather, the decisive factor was that the budget item in question functioned as a "catchall" appropriation in which funds were still reasonably available to satisfy the State's adjudicated debt. (*Id.* at pp. 543-544.)

Another illustration of this principle is found in *Serrano v. Priest* (1982) 131 Cal.App.3d 188 [182 Cal.Rptr. 387]. Plaintiffs in that case secured a judgment against the State of California for $800,000 in attorney's fees. The judgment was not paid, and subsequent proceedings were brought against State to satisfy the judgment. The trial court directed the State Controller to pay the $800,000 award, plus interest, from funds appropriated by the Legislature for "operating expenses and equipment" of the Department of Education, Superintendent of Public Instruction and State Board of Education. (*Id.* at p. 192.) This court affirmed that order even though there was no evidence that the agencies involved had ever paid court-ordered attorney's fees from that portion of the budget. Relying on *Mandel*, we concluded that funds were reasonably available from appropriations enacted in the Budget Act in effect at the time of the court's order, as well as from similar appropriations in subsequent budget acts.

(11)State also incorrectly asserts that the appropriations affected by the court's order must specifically refer to the particular expenditure in question in order to be available. This notion was summarily dismissed in *Mandel v. Myers*, *supra.*, 29 Cal.3d at pp. 543-544. Likewise, in *Committee to Defend* ***541** *Reproductive Rights v. Cory*, *supra.*, 132 Cal.App.3d at pp. 857-858, the court decreed that payments for Medi-Cal abortions could properly be ordered from monies appropriated for other Medi-Cal services, even though this use had been specifically prohibited by the Legislature.

Applying these various principles here, we note that the judgment (fn. 7, ¶ 2, *ante*)*ante*) identified funds in account numbers 8350-001-001, 8350-001-452, 8350-001-453 and 8350-001-890 as being available for reimbursement. Within these 1984-1985 account appropriations for the Department of Industrial Relations were monies for Program 40, the Prevention of Industrial Injuries and Deaths of California Workers. The evidence clearly showed that the remaining balances on hand would cover the cost of reimbursement. Since it is conceded that the fire fighting protective clothing and equipment in this case was purchased to

prevent deaths and injuries to fire fighters, these funds, although not specifically appropriated for the reimbursement in question, were generally related to the nature of costs incurred by County and are therefore reasonably available for reimbursement.

B. *Legislative Disclaimers, Findings and Budget Control Language Are No Defense to Reimbursement*

As a general defense against the order to reimburse, State insists that the Legislature has itself concluded that the claimed costs are not reimbursable. This determination took the combined form of disclaimers, findings and budget control language. State interprets this self-serving legislation, as well as the legislative and gubernatorial deletions, as forever sweeping away State's obligation to reimburse the state-mandated costs at issue. Consequently, any order that ignores these restrictions on payment would amount to a court-ordered appropriation. As we shall conclude, these efforts are merely transparent attempts to do indirectly that which cannot lawfully be done directly.

The seminal legislation that gave rise to the 1978 executive orders was enacted by Statutes 1973, chapter 993, and is labeled the California Occupational Safety and Health Act (Cal/OSHA). It is modeled after federal law and is designed to assure safe working conditions for all California workers. A legislative disclaimer appearing in section 106 of that bill reads: "No appropriation is made by this act ... for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on ...." The stated reason for this decision not to appropriate was that the cost of implementing the act was "minimal on a statewide basis in relation to the effect on local tax rates." (Stats. 1973, ch. 993, § 106, p. 1954.) ***542**

Again, in 1974, the Legislature stated: "Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section, nor shall there be an appropriation made by this act, because the Legislature finds that this act and any executive regulations or safety orders issued pursuant thereto merely implement federal law and regulations." (Stats. 1974, ch. 1284, § 106, p. 2787.) This statute amended section 106 of Statutes 1973, chapter 993, and was a post facto change in the stated legislative rationale for not providing reimbursement.

Presumably because of the large number of reimbursement claims being filed, the Legislature subsequently used budget control language to confirm that compliance with the executive orders should not trigger reimbursement. Some of this legislation was effective September 30, 1981, as part of a local agency and school district reimbursement bill. The control language provided that "[t]he Board of Control shall not accept, or submit to the Legislature, any more claims pursuant to ... Sections 3401 to 3409, inclusive, of Title 8 of the California Administrative Code." (Stats. 1981, ch. 1090, § 3, p. 4193.) [13]

Further control language was inserted in the 1981, 1983 and 1984 Budget Acts. (Stats. 1981, ch. 99, § 28.40, p. 606; Stats. 1983, ch. 324, § 26.00, p. 1504; Stats. 1984, ch. 258, § 26.00.) This language prohibits encumbering appropriations to reimburse costs incurred under the executive orders, except under certain limited circumstances.

(12a)State first challenges the trial court's finding that expenditures mandated by the executive orders were not the result of a federally mandated program (fn. 7, ¶ 8, *ante*), despite the legislative finding in Statutes 1974, chapter 1284, section 106. We agree with the court's decision that there was no federal mandate.

The significance of this no-federal-mandate finding is revealed by examining past changes in the statutory definition of state-mandated costs. As thoroughly discussed in *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182, 196-197 [203 Cal.Rptr. 258] disapproved on other grounds in *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d at p. 58, fn. 10, the concept of federally mandated costs has provided local agencies with a financial escape valve ever since passage of the "Property Tax Relief Act of 1972." (Stats. 1972, ch. 1406, § 1, p. 2931.) That act limited local governments' power to levy property taxes, while requiring that they be reimbursed by the State for providing compulsory increased levels of service or ***543** new programs. However, under Revenue and Taxation Code section 2271, "costs mandated by the federal government" were not subject to reimbursement and local governments were permitted to levy taxes in addition to the maximum property tax rate to pay such costs.

On November 6, 1979, the limitation on local government's ability to raise property taxes, and the duty of the State to reimburse for state-mandated costs, became a part of the

California Constitution through the initiative process. Article XIII B, section 6, enacted at that time, directs state subvention similar in nature to that required by the preexisting provisions of Revenue and Taxation Code section 2207 and former section 2231. As a defense against this duty to reimburse local agencies, the Legislature began to insert disclaimers in bills which mandated costs on local agencies. It also amended Revenue and Taxation Code section 2206 to expand the definition of nonreimbursable "costs mandated by the federal government" to include the following: "costs resulting from enactment of a state law or regulation where failure to enact such law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state."

In applying this definition here, State offers nothing more than the bare legislative finding contained in Statutes 1974, chapter 1284, section 106. State contends that a federally mandated cost cannot, by definition, be a state-mandated cost. Therefore, if the cost is federally mandated, local agency reimbursement is not required. (13)**(See fn. 14.)** Although State's argument is correct in the abstract, neither the facts nor federal law supports the underlying assumption that there is a federal mandate. [14]

(12b)Both the Board and the court had in evidence a letter from a responsible official of the federal Occupational Safety and Health Administration (OSHA). The letter emphasizes the independence of state and federal OSHA standards: "OSHA does not have jurisdiction over the fire departments of any political subdivision of a state whether the state has elected to have its own state plan under the OSHA act or not .... [¶] More specifically, in 1978, the State of California promulgated standards applicable to fire departments in California. Therefore, California standards, rather than ***544** federal OSHA standards, are applicable to fire departments in that state ...." This theme is also reflected in a section of OSHA which expressly disclaims jurisdiction over local agencies such as County. (29 U.S.C. § 652(5).) Accordingly, as a matter of law, there are no federal standards for local government structural fire fighting clothing and equipment.

In short, while the Legislature's enactment of Cal/OSHA to comply with federal OSHA standards is commendable, it certainly was not compelled. Consequently, County's obedience to the 1978 executive orders is not federally mandated.

(14a)The trial court also properly invalidated the budget control language in Statutes 1981, chapter 1090, section 3 (fn. 7, ¶ 7, *ante*) because it violated the single subject rule. [15] This legislative restriction purported to make the reimbursement provisions of Revenue and Taxation Code section 2207 and former section 2231 unavailable to County.

(15)The single subject rule essentially requires that a statute have only one subject matter and that the subject be clearly expressed in the statute's title. The rule's primary purpose is to prevent "log-rolling" in the enactment of laws. This disfavored practice occurs where a provision unrelated to a bill's main subject matter and title is included in it with the hope that the provision will remain unnoticed and unchallenged. By invalidating these unrelated clauses, the single subject rule prevents the passage of laws which otherwise might not have passed had the legislative mind been directed to them. (*Planned Parenthood Affiliates v. Swoap* (1985) 173 Cal.App.3d 1187, 1196 [219 Cal.Rptr. 664].) However, in order to minimize judicial interference in the Legislature's activities, the single subject rule is to be construed liberally. A provision violates the rule only if it does not promote the main purpose of the act or does not have a necessary and natural connection with that purpose. (*Metropolitan Water Dist. v. Marquardt* (1963) 59 Cal.2d 159, 172-173 [28 Cal.Rptr. 724, 379 P.2d 28].)

(14b)The stated purpose of chapter 1090 is to increase funds available for reimbursing certain claims. It describes itself as an "act making an appropriation to pay claims of local agencies and school districts for additional reimbursement for specified state-mandated local costs, awarded by the State Board of Control, and declaring the urgency thereof, to take effect immediately." (Stats. 1981, ch. 1090, p. 4191.) There is nothing in this introduction ***545** alerting the reader to the fact that the bill prohibits the Board from entertaining claims pursuant to the Cal/OSHA executive orders. The control language does not modify or repeal these orders, nor does it abrogate the necessity for County's continuing compliance therewith. It simply places County's claims reimbursement process in limbo.

This special appropriations bill is similar in kind to appropriations in an annual budget act. Observations that have

been made in connection with the enactment of a budget bill are appropriate here. "[T]he annual budget bill is particularly susceptible to abuse of [the single subject] rule. 'History tells us that the general appropriation bill presents a special temptation for the attachment of riders. It is a necessary and often popular bill which is certain of passage. If a rider can be attached to it, the rider can be adopted on the merits of the general appropriation bill without having to depend on its own merits for adoption.' [Citation.]" (*Planned Parenthood Affiliates v. Swoap*, *supra.*, 173 Cal.App.3d at p. 1198.) Therefore, the annual budget bill must only concern the subject of appropriations to support the annual budget and may not constitutionally be used to substantively amend or change existing statutory law. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 394 [211 Cal.Rptr. 758, 696 P.2d 150].) We see no reason to apply a less stringent standard to a special appropriations bill. Because the language in chapter 1090 prohibiting the Board from processing claims does not reasonably relate to the bill's stated purpose, it is invalid.

(16)The budget control language in chapter 1090 is also invalid as a retroactive disclaimer of County's right to reimbursement for debts incurred in prior years. This legislative technique was condemned in *County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at p. 446. There, the Legislature had enacted a Government Code section which prohibited using appropriations for any purpose which had been denied by any formal action of the Legislature. The State attempted to use this code section to uphold a special appropriations bill which had deleted County's Board-approved claims for costs which were incurred prior to the enactment of the code section. The court held that the code section did not apply retroactively to defeat County's claims: "A retroactive statute is one which relates back to a previous transaction and gives that transaction a legal effect different from that which it had under the law when it occurred ... 'Absent some clear policy requiring the contrary, statutes modifying liability in civil cases are not to be construed retroactively.'" (*Id.* at p. 459, quoting *Robinson v. Pediatric Affiliates Medical Group, Inc.* (1979) 98 Cal.App.3d 907, 912 [159 Cal.Rptr. 791].) Similarly, the control language in chapter 1090 does not apply retroactively to County's prior, Board-approved claims. ***546**

(17)Finally, the control language in section 28.40 of the 1981 Budget Act and section 26.00 [16] of the 1983 and 1984 Budget Acts does not work to defeat County's claims. (Stats. 1981, ch. 99, § 28.40, p. 606; Stats. 1983, ch. 324, § 26.00, p. 1504; Stats. 1984, ch. 258, § 26.00.) This section is comprised of both substantive and procedural provisions. We are concerned primarily with those portions that purport to exonerate State from its constitutionally and statutorily imposed obligation to reimburse County's state-mandated costs.

The writ of mandate directed compliance with the procedural provisions of these sections and is not a point of dispute on appeal. Subsection (a) affords the Legislature one last opportunity to appropriate funds which are to be encumbered for the purpose of paying state-mandated costs, an invitation repeatedly rejected. Subsection (b) directs that the Department of Finance notify the chairpersons of the appropriate committees in each house and chairperson of the Joint Legislative Budget Committee of the need to encumber funds. Presumably, the objective of this procedure is to give the Legislature another opportunity to amend or repeal substantive legislation requiring local agencies to incur state-mandated costs. Again, the Legislature declined to act. Legislative action pursuant to subsection (b) could arguably ameliorate the plight of local agencies prospectively, but would be of no practical assistance to a local agency creditor seeking reimbursement for costs already incurred.

The first portion of each section, however, imposes a budgetary restriction on encumbering appropriated funds to reimburse for state-mandated costs arising out of compliance with the executive orders, absent a specific appropriation pursuant to subparagraph (b). For the reasons stated above, this substantive language is invalid under the single subject rule. It attempts to amend existing statutory law and is unrelated to the Budget Acts' main purpose of appropriating funds to support the annual budget. (*Association for Retarded Citizens v. Department of Developmental Services*, *supra.*, 38 Cal.3d at p. 394.) Now unfettered by invalid restrictions, the appropriations involved in this case are reasonably available for reimbursement. ***547**

C. *The Legislature's Plenary Power to Regulate Worker Safety Does Not Affect the Right to Reimbursement*

(18)State contends that article XIV, section 4 of the California Constitution vests the Legislature with unlimited plenary power to create and enforce a complete workers'

compensation system. It postulates that the Legislature may determine that the interest in worker safety and health is furthered by requiring local agencies to bear the costs of safety devices. This non sequitur is advanced without citation of authority.

Article XIV, section 4 concerns the power to enact workers' compensation statutes and regulations. It does not focus on the issue of reimbursement for state-mandated costs, which is covered by Revenue and Taxation Code section 2207 and former section 2231, and article XIII B, section 6. Since these latter provisions do not effect a pro tanto repeal of the Legislature's plenary power over workers' compensation law (see *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d 46), they do not conflict with article XIV, section 4.

Moreover, even though the reimbursement issue has come before the Legislature repeatedly since 1972, no law has been enacted to exempt compliance with workers' compensation executive orders from the mandatory reimbursement provisions of Revenue and Taxation Code section 2207 and former section 2231. Likewise, article XIII B, section 6 does not provide an exception to the obligation to reimburse local agencies for compliance with these safety orders.

D. *Pre-1980 Claims Are Reimbursable Under Article XIII B, Section 6, Effective July 1, 1980*

(19)State further argues that to the extent County's claims for fiscal years 1978-1979 and 1979-1980 are predicated on the subvention provisions of article XIII B, section 6, they fall within a "window period" of nonreimbursement. This assertion emanates from section 6, subdivision (c), which states that the Legislature "[m]ay, but need not," provide reimbursement for mandates enacted before January 1, 1975. State reasons that because the constitutional amendment did not become effective until July 1, 1980, claims for costs incurred between January 1, 1975 and June 30, 1980, need not be reimbursed.

This notion was rejected in *City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at p. 182 on behalf of local agencies seeking reimbursement of unemployment insurance costs mandated by a 1978 statute. Basing its decision on well-settled principles of constitutional interpretation ***548** and upon a prior published opinion of the Attorney General, the court interpreted section 6, subdivision (c) as follows: "[T]he Legislature *may* reimburse mandates enacted prior to January 1, 1975, and *must* reimburse mandates passed after that date, but does not have to begin such reimbursement until the effective date of article XIII B (July 1, 1980)." (*Id.* at p. 191, italics in original.) In other words, the amendment operates on "window period" mandates even though the reimbursement process may not actually commence until later.

We agree with this reasoning and find costs incurred by County under the 1978 executive orders subject to reimbursement under the Constitution.

E. *Claims Under Revenue and Taxation Code Section 2207 and Former Section 2231 Are Not Time-barred*

(20)State collaterally asserts that to the extent County bases its claims on Revenue and Taxation Code section 2207 and former section 2231, they are barred by Code of Civil Procedure sections 335 and 338, subdivision 1. This omnibus challenge to the order directing payment has no merit.

Code of Civil Procedure section 335 is a general introductory section to the statute of limitations for all matters except recovery of real property. Code of Civil Procedure section 338, subdivision 1 requires "[a]n action upon a liability created by statute" to be commenced within three years.

A claimant does not exhaust its administrative remedies and cannot come under the court's jurisdiction until the legislative process is complete. (*County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 77 [222 Cal.Rptr. 750].) Here, County pursued its remedy before the Board and prevailed. Thereafter, as required by law, appropriate legislation was introduced. Both the Board hearings and the subsequent efforts to secure legislative appropriations were part of the legislative process. (Former Rev. & Tax. Code, § 2255, subd. (a).) It was not until the legislation was enacted sans appropriations on September 30, 1981 (S.B. 1261) and February 12, 1982 (A.B. 171) that it became unmistakably clear that this process had ended and State had breached its duty to reimburse. At these respective moments of breach, County's right of action in traditional mandamus accrued. County's petition was filed on September 21, 1984, within the three-year statutory period. [17] (*Lerner v. Los Angeles City Board of Education*, *supra.*, 59 Cal.2d at p. 398.) ***549**

F. *Government Code Section 17612*'s Remedy for Unfunded Mandates Does Not Supplant the Court's Order

State continues its general attack on the order directing payment by arguing that the Legislature has "defined" the remedy available to a local agency if a mandate is unfunded. That remedy is found in Government Code section 17612, subdivision (b) and reads: "If the Legislature deletes from a local government claims bill funding for a mandate, the local agency ... *may* file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Italics added.) (See also former Rev. & Tax. Code, § 2255, subd. (c), eff. Oct. 1, 1982.)

State hints that this procedure is the only remedy available to a local agency if funding is not provided. At oral argument, State admitted that this declaration of enforceability and injunction against enforcement would be prospective only. This remedy would provide no relief to local agencies which have complied with the executive orders.

We conclude that Government Code section 17612, subdivision (b) is inapplicable here because it did not become operative until January 1, 1985. It was not in place when the Board rendered its decision on November 20, 1979; when funding was deleted from S.B. 1261 (Sept. 30, 1981) and A.B. 171 (Feb. 12, 1982); or when this litigation commenced on September 21, 1984. (21)A party is not required to exhaust a remedy that was not in existence at the time the action was filed. (*Ross v. Superior Court* (1977) 19 Cal.3d 899, 912, fn. 9 [141 Cal.Rptr. 133, 569 P.2d 727].) To abide by this post facto legislation now would condone legislative interference in a specific controversy already assigned to the judicial branch for resolution. (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at p. 201.)

Also, this remedy is purely a discretionary course of action. By using the permissive word "may," the Legislature did not intend to override article XIII B, section 6 and Revenue and Taxation Code section 2207 and former section 2231. These constitutional and statutory imprimaturs each impose upon the State an obligation to reimburse for state-mandated costs. Once that determination is finally made, the State is under a clear and present ministerial duty to reimburse. In the absence of compliance, traditional mandamus lies. (Code Civ. Proc., § 1085.) [18] ***550**

G. *The Court's Order Properly Allows County the Right of Offset*

(22a)As the first in a series of objections to portions of the judgment which assist in the reimbursement process, State argues that the court has improperly authorized County to satisfy its claims by offsetting fines and forfeitures due to State. (Fn. 7, ¶ 5, *ante.ante*.) The fines and forfeitures are those found in Penal Code sections 1463.02, 1463.03, 1463.5a and 1464; Government Code sections 13967, 26822.3 and 72056; Fish and Game Code section 13100; Health and Safety Code section 11502; and Vehicle Code sections 1660.7, 42004 and 41103.5. [19]

Broadly speaking, these statutes require County to periodically transfer all or part of the fines and forfeitures collected by it for specified law violations to the State Treasury. They are to be held there "to the credit" of various state agencies, or for payment into specific funds. State contends that since these statutes require mandatory, regular transfers and do not expressly permit diversion for other purposes, the court had no power to allow County to offset. State cites no authority for this contention.

(23)The right to offset is a long-established principle of equity. Either party to a transaction involving mutual debits and credits can strike a balance, holding himself owing or entitled only to the net difference. (*Kruger v. Wells Fargo Bank* (1974) 11 Cal.3d 352, 362 [113 Cal.Rptr. 449, 521 P.2d 441, 65 A.L.R.3d 1266].) Although this doctrine exists independent of statute, its governing principle has been partially codified (Code Civ. Proc., § 431.70) (limited to cross-demands for money).

The doctrine has been applied in favor of a local agency against the State. In *County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576[159 Cal.Rptr.1], for example, the court of appeal upheld a trial court's decision to grant a writ of mandate that ordered funds awarded the County under a favorable judgment to be offset against its current liabilities to the State under the Medi-Cal program. The court stated that such an order does not interfere with the "Legislature's control over the 'submission, approval and enforcement of

budgets....'" (*Id.* at p. 592, quoting Cal. Const., art. IV, § 12, subd. (e).)

(22b)The order herein likewise does not impinge upon the Legislature's exclusive power to appropriate funds or control budget matters. The identified ***551** fines and forfeitures are collected by the County for statutory law violations. Some of these funds remain with the County, while others are transferred to the State. State's portions are uncertain as to amount and date of transfer. State does not come into actual possession of these funds until they are transferred. State's holding of these funds "to the credit" of a particular agency, or for payment to a specific fund, does not commence until their receipt. Until that time, they are unencumbered, unrestricted and subject to offset.

H. *State's Use of its Statutory Offset Authority Was Properly Enjoined*

(24)State further contends that the trial court exceeded its jurisdiction by enjoining the exercise of State's statutory offset authority until County is fully reimbursed. (Fn. 7, ¶ 11, *ante*.)[20] This order complemented that portion of the order discussed, *infra.*, which allowed County to temporarily offset fines and forfeitures as an aid in the reimbursement process.

State correctly observes that it has not unlawfully used its offset authority during the course of this dispute. However, State has not needed to do so because it has adopted other means of avoiding payment on County's claims. In view of State's manifest reluctance to reimburse, and its otherwise unencumbered statutory right of offset, the trial court was well within its authority to prevent this method of frustrating County's collection efforts from occurring. (See *County of Los Angeles v. State of California* (1984) 153 Cal.App.3d 568 [200 Cal.Rptr. 394].)

I. *The Injunction Against Reversion or Dissipation of Undisbursed Appropriations Is Proper*

(25)State continues that the order (fn. 7, ¶ 4, *ante*)*ante*) enjoining it from directly or indirectly reverting the reimbursement award sum from the general fund line item accounts, and from otherwise dissipating that sum in a manner that would make it unavailable to satisfy this court's judgment, violates Government Code section 16304.1.[21] This section reverts undisbursed ***552** balances in any appropriation to the fund from which the appropriation was made. No authority is cited for State's proposition. To the contrary, *County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at pp. 456-457 expressly confirms this type of ancillary remedy as a legitimate exercise of the court's authority to assist in collecting on an adjudicated debt, the payment of which has been delayed all too long.

That portion of the order restraining reversion is particularly innocuous because it only affects undisbursed balances in an appropriation. At the time of reversion, it is crystal clear that these remaining funds are unneeded for the primary purpose for which appropriated; otherwise, they would not exist. Moreover, that portion of the order restraining dissipation of the reimbursement award sum in a manner that would make it unavailable to satisfy a court's judgment is similarly a proper exercise of the court's authority. By not reimbursing County for the state-mandated costs, State would be contravening its constitutional and statutory obligations to subvent. To the extent it is not reimbursed, County would be compelled, contrary to law, to bear the cost of complying with a state-imposed obligation.

J. *The Auditor Controller and the Specified Funds Are Not Indispensable Parties*

(26, 27)State next contends that the Auditor Controller of Los Angeles County and the "specified" fines and forfeitures County was allowed to offset are indispensable parties. Failure to join them in the action or to serve them with process purportedly renders the trial court's order void as in excess of its jurisdiction.[22] State cites only the general statutory definition of an indispensable party (Code Civ. Proc., § 389) to support this assertion.

The Auditor Controller is an officer of the County and is subject to the ***553** direction and control of the County board of supervisors. (Gov. Code, § 24000, subds. (d), (e), 26880; L.A. County Code, § 2.10.010.) He is indirectly represented in these proceedings because his principal, the County, is the party litigant. Additionally, he claims no personal interest in the fines and forfeitures and his pro forma absence in no way impedes complete relief.

The funds created by the collected fines and forfeitures also are not indispensable parties. This is not an in rem proceeding, and the ownership of a particular stake is not in dispute. Rather, this is an action to compel a ministerial obligation imposed by law. Complete relief may be afforded without including the specified funds as a party.

K. *County is Entitled to Interest*

(28)State insists that an award of interest to County unfairly penalizes State for not paying claims which it was prohibited by law from paying under Statutes 1981, chapter 1090, section 3. This argument is unavailing.

Civil Code section 3287, subdivision (a) allows interest to any person "entitled to recover damages certain, or capable of being made certain by calculation...." Interest begins on the day that the right to recover vests in the claimant. By its own terms, this section applies to any judgment debtor, "including the state...or any political subdivision of the state."

The judgment orders interest at the legal rate from September 30, 1981, for reimbursement funds originally contained in S.B. 1261, and from February 12, 1982, for the funds originally contained in A.B. 171. These are the respective dates that the bills were enacted without appropriations. As we concluded earlier, County's cause of action did not arise and its right to recover did not vest until this legislative process was complete. County offers no authority to suggest that any other vesting date is appropriate.

Furthermore, State cannot avoid its obligation to pay interest by relying on the invalid budget control language in Statutes 1981, chapter 1090, section 3. "An invalid statute voluntarily enacted and promulgated by the state is not a defense to its obligation to pay interest under Civil Code section 3287, subdivision (a)." (*Olson v. Cory* (1983) 35 Cal.3d 390, 404 [197 Cal.Rptr. 843, 673 P.2d 720].)

Appeal in Case No. 2 Civil B011941

(Rincon et al. Case)

The procedural history and legal issues raised in the *Rincon et al*. appeal are essentially similar to those discussed in the County of Los Angeles matter. ***554**

County, although not a party to this underlying trial court proceeding, filed a test claim with the Board. All parties agree that County represented the interests of the named respondents here.

The Board action resulted in a finding of state-mandated costs. It further found that Rincon et al. were entitled to reimbursement in the amount of $39,432. After the Legislature and the Governor, respectively, deleted the funding from the two appropriations bills, S.B. 1261 and A.B. 171, Rincon et al. filed a petition for writ of mandate and declaratory relief. This action was consolidated for hearing in the trial court with the action in B011942 (County of Los Angeles matter). The within judgment was also signed, filed and entered on February 6, 1985. The reimbursement order was directed against the 1984-1985 budget appropriations. State appeals from that judgment.

The court here included a judicial determination that the Board, or its successors, hear and approve the claims of certain other respondents for costs incurred in connection with the state-mandated program. (Fn. 7, ¶ 9, *ante*.) This special directive was necessary because the claims of these respondents (petitioners below) have not yet been determined.[23] Since we have ruled that State is barred by the doctrines of waiver and administrative collateral estoppel from raising the state mandate issue, the validity of these claims becomes a question of law susceptible to but one conclusion, and mandamus properly lies. (*County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at p. 453.) This portion of the order also underscores, for the Board's edification, the determination that the statutory restriction on the Board authority to proceed is invalid.[24]

Once again, our determinations and conclusions in the County of Los Angeles matter are equally applicable here.

Appeal in Case No. 2 Civil B006078

(Carmel Valley et al.)

Again, the procedural history and legal issues raised in this appeal are essentially similar to those discussed in the County of Los Angeles matter.

County filed a test claim with the Board. All parties agree that the County represented the interests of the named respondents here. ***555**

On December 17, 1980, the Board found that a state mandate existed and that specific amounts of reimbursement were due several respondents totalling $159,663.80. Following the refusal of the Legislature to appropriate funds for reimbursement, Carmel Valley et al. filed a petition for writ of mandate and declaratory relief on January 3, 1983. Judgment

was entered on May 23, 1984. The reimbursement order was directed against 1983-1984 budget appropriations.

The judgment differs from the other two because it does not decree a specific reimbursement amount. The trial court determined that even though the Board had approved the claims, the State was not precluded from contesting that determination. The court's reasons were that the State, in its answer, had denied that the money claimed was actually spent, and that Board approval had not been implemented by subsequent legislation. The court concluded that the reimbursement process, of which the Board action was an intrinsic part, was "aborted."

We disagree with this portion of the court's analysis. The moment S.B. 1261 and A.B. 171 were enacted into law without appropriations, Carmel Valley et al. had exhausted their administrative remedies and were entitled to seek a writ of mandate. At the time of trial, State was barred by the doctrines of waiver and administrative collateral estoppel from contesting the state mandate issue or the amount of reimbursement. The trial court therefore should have rendered a judgment for the amount of reimbursement. Having failed to do so, this fact-finding responsibility falls upon this court. Although we ordinarily are not equipped to handle this function, the writ of mandate in this case identifies the amount of the approved claims as $159,663.80. We accordingly will amend the judgment to reflect that amount.

The trial court also predicated its judgment for Carmel Valley et al. solely on the basis of Revenue and Taxation Code section 2207 and former section 2231. In doing so, the court did not have the benefit of the decision in *City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at p. 182.[25] That case held that mandates passed after January 1, 1975, must be reimbursed pursuant to article XIII B, section 6 of the California Constitution, but that reimbursement need not commence until July 1, 1980. In light of this rule, we conclude that the trial court's decision ordering reimbursement is also supported by article XIII B, section 6. ***556**

State raises another point specific to this particular appeal. In its answer to the writ petition, State admitted that the local agency expenditures were state mandated. Consequently, the issue was not contested at the trial court level. However, State vigorously contends here that it is not bound by its trial court admissions because the state mandate issue is purely a question of law.

(29)State is correct in contending that an appellate court is not limited by the interpretation of statutes given by the trial court. (*City of Merced v. State of California*, *supra.*, 153 Cal.App.3d at p. 781.) However, State's victory on this point is Pyrrhic. Regardless of how the issue is characterized, State is precluded from contesting the Board findings on appeal because of the independent application of the doctrines of waiver and administrative collateral estoppel. These doctrines would also have applied at the trial court level if State's answer had raised the issue of state mandate in the first instance.

We also reject State's argument, advanced for the first time on appeal, that the executive orders of 1978 initially implement legislation enacted prior to January 1, 1975, and that state reimbursement is therefore discretionary. (Cal. Const., art. XIII B, § 6, subd. (c).) Again, State is barred by the doctrines of waiver and administrative collateral estoppel from arguing that costs incurred under the executive orders are not subject to reimbursement.

State continues that the *Carmel Valley* judgment against the Department of Industrial Relations is erroneous. Since the department was never made a party in the suit, nor served with process, the resulting judgment reflects a denial of due process and is in excess of the court's jurisdiction. (See Code Civ. Proc., § 389; fn. 22, *ante*.)

This assertion is but a variant of the same argument advanced in the County of Los Angeles case, *supra.*, which we rejected as meritless. The department is part of the State of California. (Lab. Code, § 50.) State extensively argued the department's position and even offered into evidence a declaration from the chief of fiscal accounting of the department. As stated earlier, agents of the same government are in privity with each other. (*People v. Sims*, *supra.*, 32 Cal.3d at p. 487.)

Ross v. Superior Court, *supra.*, 19 Cal.3d at p. 899 demonstrates how, through the notion of privity, a government agent can be held in contempt for knowingly violating a court order issued against another agent of the same government. There, a court in an earlier proceeding had decided that defendant Department of Health and Welfare must pay unlawfully withheld welfare benefits to qualified recipients. The County Board of Supervisors, ***557** who

were not parties to this action, knew about the court's order but refused to comply. The Supreme Court affirmed a trial court decision holding the Board in contempt for violating the order directing payment. The court reasoned that, as an agent of the Department of Health and Welfare, the Board did not collectively or individually need to be named as a party in order to be bound by a court order of which they had actual knowledge.

The determinations and conclusions in the County of Los Angeles case are likewise applicable here.

Modification of Judgments in All Three Appeals

The trial court judgments ordering reimbursement from specific account appropriations were entered many months ago. We will affirm these judgments and thereby validate the trial courts' determination that funds already appropriated for the State Department of Industrial Relations were reasonably available for payment at the time of the courts' orders.

Due to the passage of time, we requested State at oral argument to confirm whether the appropriations designated in the respective judgments are still available for encumbrance. State's counsel responded by rearguing that the weight of the evidence did not support the trial courts' findings that specific funds were reasonably available for reimbursement. Counsel further hinted that the funds may not actually be available.

We hope that counsel for the State is mistaken. But in order to emphasize our strong and unequivocal determination that the local agency petitioners be promptly reimbursed, we will take judicial notice of the enactment of the 1985-1986 Budget Act (Stats. 1985, ch. 111) and the 1986-1987 Budget Act (Stats. 1986, ch. 186). (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at p. 197.) Both acts appropriate money for the State Department of Industrial Relations and fund the identical account numbers referred to in the trial courts' judgments. They are:

Account Numbers	1985-1986 Budget Act	1986-1987 Budget Act
8350-001-001	$94,673,000	$106,153,000
8350-001-452	2,295,000	2,514,000
8350-001-453	2,859,000	2,935,000
8350-001-890	16,753,000	17,864,000

(30)An appellate court is empowered to add a directive that the trial court order be modified to include charging orders against funds appropriated by subsequent budget acts. (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at pp. 198, 201.) We do so here with respect to all three judgments. ***558**

Disposition

2d Civ. B011942 (*County of Los Angeles Case*)

The judgment is modified as follows:

(1) The following sentence is added to paragraph 2: “If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts.”

(2) The words “Fish and Game Code Section 13100” are deleted from paragraph 5.

(3) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

***2d Civ. B011941* (*Rincon et al. Case*)**

The judgment is modified as follows:

(1) The following sentence is added to paragraph 2: “If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts.”

(2) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same

account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

***2d Civ. B006078* (*Carmel Valley et al. Case*)**

The judgment is modified as follows: ***559**

(1) The following sentences are added to paragraph 2: "The reimbursement amounts total $159,663.80. If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts."

(2) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

Ashby, Acting P. J., and Hastings, J., concurred.

A petition for a rehearing was denied March 17, 1987, and appellant's petition for review by the Supreme Court was denied May 14, 1987. Eagleson, J., did not participate therein. ***560**

Footnotes

1 *2d Civ. B006078*: The petitioners below and respondents on appeal are Carmel Valley Fire Protection District, City of Anaheim, Aptos Fire Protection District, Citrus Heights Fire Protection District, Fair Haven Fire Protection District, City of Glendale, City of San Luis Obispo, County of Santa Barbara and Ventura County Fire Protection District.

The respondents below and appellants here are State of California, Kenneth Cory and Jesse Marvin Unruh.

2d Civ. B011941: The petitioners below and respondents on appeal are Rincon Del Diablo Municipal Water District, Twenty-Nine Palms Water District, Alpine Fire Protection District, Bonita-Sunnyside Fire Protection District, Encinitas Fire Protection District, Fallbrook Fire Protection District, City of San Luis Obispo, Montgomery Fire Protection District, San Marcos Fire Protection District, Spring Valley Fire Protection District, Vista Fire Protection District and City of Coronado.

Respondents below and appellants here are State of California, State Department of Finance, State Department of Industrial Relations, State Board of Control, Kenneth Cory, State Controller, Jesse Marvin Unruh, State Treasurer, and Mark H. Bloodgood, Auditor-Controller, County of Los Angeles.

2d Civ. B011942: The County of Los Angeles is the petitioner below and respondent on appeal. Respondents below and appellants here are State of California, State Department of Finance, State Department of Industrial Relations, Kenneth Cory, and Jesse Marvin Unruh.

All respondents on appeal are conceded to be "local agencies," as defined in Revenue and Taxation Code section 2211.

2 The pertinent parts of Revenue and Taxation Code section 2207 provide: " 'Costs mandated by the state' means any incureased costs which a local agency is required to incur as a result of the following" [¶] (a) Any law enacted after January 1, 1973, which mandates a new program or a n incureased level of service of an existing program: [¶] (b) Any executive order issued after January 1, 1973, which mandates a new program; [¶] (c) Any executive order isued after January 1, 1973, which (i) implements or interprets a state statute

and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1973 ..."

3 The pertinent parts of former Revenue and Taxation Code section 2231, subdivision (a) provide: "The state shall reimburse each local agency for all 'costs mandated by the state', as defined in Section 2207." This section was repealed (Stats. 1986, ch. 879, § 23), and replaced by Government Code section 17561. We will refer to the earlier code section.

4 The pertinent parts of section 6, article XIII B of the California Constitution, enacted by initiative measure, provide: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] ... [¶¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." This constitutional amendment became effective July 1, 1980.

5 County filed its test claim pursuant to former Revenue and Taxation Code section 2218, which was repealed by Statutes 1986, chapter 879, section 19.

Additionally, the Board is no longer in existence. The Commission on State Mandates has succeeded to these functions. (Gov. Code, §§ 17525, 17630.)

6 The final legislation did include appropriations for other local agencies on other types of approved claims.

7 "1. The Court adjudges and declares that funds appropriated by the Legislature for the State Department of Industrial Relations for the Prevention of Industrial Injuries and Deaths of California Workers within the Department's General Fund may properly be and should be spent for the reimbursement of state-mandated costs incurred by Petitioner as established in this action.

"2. A peremptory writ of mandamus shall issue under the seal of this Court, commanding Respondent State of California, through its Department of Finance, to give notification in writing as specified in Section 26.00 of the Budget Act of 1984 (Chapter 258, Statutes of 1984) of the necessity to encumber funds in conformity [with]this order and, unless the Legislature approves a bill that would enact a general law, within 30 days of said notification that would obviate the necessity of such payment, Respondent Kenn[e]th Cory, the State Controller of the State of California, or his successors in office, if any, shall draw warrants on funds appropriated for the State Department of Industrial Relations for the 1984-85 Budget Year in account numbers 8350-001-001, 8350-001-452, 8350-001-453, and 8350-001-890 as implemented in Chapter 258 Statutes of 1984, sufficient to satisfy the claims of Petitioner, plus interest, as set forth in the motion and accompanying writ of mandamus. Said writ shall also issue against Jessie [*sic*] Marvin Unruh, the State Treasurer of the State of California, and his successors in office, if any, commanding him to make payment on the warrants drawn by Respondent Kenneth Cory.

"3. Pending the final disposition of this proceeding, or the payment of the applicable reimbursement claims and interest as set forth herein, Respondents, and each of of [*sic*] them, their successors in office, agents, servants and employees and all persons acting in concert [or] participation with them, are hereby enjoined and restrained from directly or indirectly expending from the 1984-85 General Fund Budget of the State Department of Industrial Relations as is more particularly described in paragraph number 2 hereinabove, any sums greater than that which would leave in said budget at the conclusion of the 1984-85 fiscal year an amount less than the reimbursement amounts on the aggregate amount of $307,685 in this case, together

with interest at the legal rate through payment of said reimbursement amounts. Said amounts are hereinafter referred to collectively as the 'reimbursement award sum'.

"4. Pending the final disposition of this proceeding or the payment of the reimbursement award sum at issue herein, Respondents, and each of them, their successors in office, agents, servants and employees, and all persons acting in concert or participation with them, are hereby enjoined and restrained from directly or indirectly reverting the reimbursement award sum from the General Fund line-item accounts of the Department of Industrial Relations to the General Funds of the State of California and from otherwise dissipating the reimbursement award sum in a manner that would make it unavailable to satisfy this Court's judgment.

"5. In addition to the foregoing relief, Petitioner is entitled to offset amounts sufficient to satisfy the claims of Petitioner, plus interest, against funds held by Petitioner as fines and forfeitures which are collected by the local Courts, transferred to the Petitioner and remitted to Respondents on a monthly basis. Those fines and forfeitures are levied, and their distribution provided, as set forth in Penal Code Sections 1463.02, 1463.03, 14[6] 3.5[a], and 1464; Government Code Sections 13967, 26822.3 and 72056, Fish and Game Code Section 13100; Health and Safety Code Section 11502 and Vehicle Code Sections 1660.7, 42004, and 41103.5.

"6. The Court adjudges and declares that the State has a continuing obligation to reimburse Petitioner for costs incurred in fiscal years subsequent to its claim for expenditures in the 1978-79 and 1979-80 fiscal years as set forth in the petition and the accompanying motion for the issuance of a writ of mandate.

"7. The Court adjudges and declares that deletion of funding and prohibition against accepting claims for expenditures incurred as a result of the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 as contained in Section 3 of Chapter 109[0], Statutes of 1981 were invalid and unconstitutional.

"8. The Court adjudges and declares that the expenditures incurred by Petitioner as a result of the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 were not the result of any federally mandated program.

"9. A peremptory writ of mandamus shall issue under the seal of this Court commanding Respondent State Board of Control, or its successor-in-interest, to hear and approve the claims of Petitioner for costs incurred in complying with the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 subsequent to fiscal year 1979-80.

. . . . ."

"11. The Court adju[d]ges and declares that the State Respondents are prohibited from offsetting, or attempting to implement an offset against moneys due and owing Petitioner until Petitioner is completely reimbursed for all of its costs in complying with the state mandate of Title 8, California Administrative Code Sections 3401 through 3409."

8 This language is taken from Revenue and Taxation Code section 2207 and former section 2231. Article XIII B, section 6 refers to "higher" level of service rather than "increased" level of service. We perceive the intent of the two provisions to be identical. The parties also use these words interchangeably.

9 As it happened, the entire Board determination involved a question of law since the dollar amount of the claimed reimbursement was not disputed.

10 State is not precluded from raising this new issue on appeal. Questions of law decided by an administrative agency invoke the collateral estoppel doctrine only when a determination of conclusiveness will not work an injustice. Likewise, the doctrine of waiver is inapplicable if a litigant has no actual or constructive knowledge of his rights. Since the *State of California* rule had not been announced at the time of the Board or trial court proceedings herein, the doctrines of waiver and collateral estoppel are inapplicable to State on this particular issue. Both parties have been afforded additional time to brief the matter.

11 County suggests that to the extent private fire brigades exist, they are customarily part-time individuals who perform the function on a part-time basis. As such, they are excluded by the balance of the definitional term in title 8, California Administrative Code section 3402, which provides, in pertinent part: "... The term [fire fighter] does not apply to emergency pick-up labor or other persons who may perform first-aid fire extinguishment as collateral to their regular duties."

12 Article III, section 3 of the California Constitution provides: "The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

Article XVI, section 7 of the California Constitution provides: "Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant."

13 When Governor Brown deleted the appropriations from A.B. 171, he stated that he was relying on the pronouncements in Statutes 1974, chapter 1284 and Statutes 1981, chapter 1090.

14 We address this subject only because the trial court found that the costs were not federally mandated. Actually, State cannot raise this issue on appeal because of the waiver and administrative collateral estoppel doctrines. We note, however, where there is a quasi-judicial finding that a cost is state mandated, there is an implied finding that the cost is not federally mandated; the two concepts are mutually exclusive.

Moreover, our task is aided by the fact that interpretation of statutory language is purely a judicial function. Legislative declarations are not binding on the courts and are particularly suspect when they are the product of an attempt to avoid financial responsibility. (*City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at pp. 196-197.)

15 Article IV, section 9 of the California Constitution reads: "A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended."

16 Each of these sections contains the following language: "No funds appropriated by this act shall be encumbered for the purpose of funding any increased state costs or local governmental costs, or both such costs, arising from the issuance of an executive order as defined in section 2209 of the Revenue and Taxation Code or subject to the provisions of section 2231 of the Revenue and Taxation Code, unless (a) such funds to be encumbered are appropriated for such purpose, or (b) notification in writing of the necessity of the encumbrance of funds available to the state agency, department, board, bureau, office, or commission is given by the Department of Finance, at least 30 days before such encumbrance is made, to the chairperson of the committee in each house which considers appropriations and the Chairperson of the

Joint Legislative Budget Committee, or such lesser time as the chairperson of the committee, or his or her designee, determines."

17 Technically, Statute has waived the statute of limitations defense because it was not raised in its answer. (*Ventura County Employees' Retirement Association v. Pope* (1978) 87 Cal.App.3d 938, 956 [151 Cal.Rptr. 695].)

18 We leave undecided the question of whether this type of legislation could ever be held to override California Constitution, article XIII B, section 6. The Constitution of the State is supreme. Any statute in conflict therewith is invalid. (*County of Los Angeles v. Payne*, *supra.*, 8 Cal.2d at p. 574.)

Similarly, former Revenue and Taxation Code section 2255, subdivision (c) cannot abrogate the constitutional directive to reimburse.

19 At oral argument, County conceded that the order authorizing offset of Fish and Game Code section 13100 fines and forfeitures is inappropriate. These collected funds must be spent exclusively for protection, conservation, propagation or preservation of fish, game, mollusks, or crustaceans, and for administration and enforcement of laws relating thereto, or for any such purpose. (Cal. Const., art. XVI, § 9; 20 Ops. Cal. Atty. Gen. 110 (1952).)

20 Government Code section 12419.5 provides: "The Controller may, in his discretion, offset any amount due a state agency from a person or entity, against any amount owing such person or entity by any state agency. The Controller may deduct from the claim, and draw his warrants for the amounts offset in favor of the respective state agencies to which due, and, for any balance, in favor of the claimant.... The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided." (See also *Tyler v. State of California* (1982) 134 Cal.App.3d 973, 975-976 [185 Cal.Rptr. 49].)

21 Government Code section 16304.1 provides: "Disbursements in liquidation of encumbrances may be made before or during the two years following the last day an appropriation is available for encumbrance.... Whenever, during [such two-year period], the Director of Finance determines that the project for which the appropriation was made is completed and that a portion of the appropriation is not necessary for disbursements, such portion shall, upon order of the Director of Finance, revert to and become a part of the fund from which the appropriation was made. Upon the expiration of two years...following the last day of the period of its availability, the undisbursed balance in any appropriation shall revert to and become a part of the fund from which the appropriation was made...."

22 Code of Civil Procedure section 389, subdivision (a) provides: "A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party."

23 Responding to the budget control language directing it to refuse to process these claims, the Board declined to hear these matters.

24 Because certain claims have not yet been processed, we assume that the issue of the amount of reimbursement may still be at large. Our record is not clear on this point.

25 The decision in *City of Sacramento*, *supra.*, was filed just one day before the trial court signed the written order in this case. The Revenue and Taxation Code sections on which the court relied were operational before the costs claimed in this case were incurred.

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43 Cal.3d 46, 729 P.2d 202, 233 Cal.Rptr. 38
Supreme Court of California

COUNTY OF LOS ANGELES
et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA et
al., Defendants and Respondents.
CITY OF SONOMA et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA
et al., Defendants and Respondents

L.A. No. 32106.
Jan 2, 1987.

SUMMARY

The trial court denied a petition for writ of mandate to compel the State Board of Control to approve reimbursement claims of local government entities, for costs incurred in providing an increased level of service mandated by the state for workers' compensation benefits. The trial court found that Cal. Const., art. XIII B, § 6, requiring reimbursement when the state mandates a new program or a higher level of service, is subject to an implied exception for the rate of inflation. In another action, the trial court, on similar claims, granted partial relief and ordered the board to set aside its ruling denying the claims. The trial court, in this second action, found that reimbursement was not required if the increases in benefits were only cost of living increases not imposing a higher or increased level of service on an existing program. Thus, the second matter was remanded due to insubstantial evidence and legally inadequate findings. (Superior Court of Los Angeles County, Nos. C 424301 and C 464829, Leon Savitch and John L. Cole, Judges.) The Court of Appeal, Second Dist., Div. Five, Nos. B001713 and B003561 affirmed the first action; the second action was reversed and remanded to the State Board of Control for further and adequate findings.

The Supreme Court reversed the judgment of the Court of Appeal, holding that the petitions lacked merit and should have been denied by the trial court without the necessity of further proceedings before the board. The court held that when the voters adopted art. XIII B, § 6, their intent was not to require the state to provide subvention whenever a newly enacted statute results incidentally in some cost to local agencies, but only to require subvention for the expense or increased cost of programs administered locally, and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. Thus, the court held, reimbursement was not required by art. XIII B, § 6. Finally, the court held that no pro tanto repeal of Cal. Const., art. XIV, § 4 (workers' compensation), was intended or made necessary by ***47** the adoption of art. XIII B, § 6. (Opinion by Grodin, J., with Bird, C. J., Broussard, Reynoso, Lucas and Panelli, JJ., concurring. Separate concurring opinion by Mosk, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Governments--Costs to Be Reimbursed.
When the voters adopted Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expense or increased cost of programs administered locally, and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities.

(2)
Statutes § 18--Repeal--Effect--"Increased Level of Service."
The statutory definition of the phrase "increased level of service," within the meaning of Rev. & Tax. Code, § 2207, subd. (a) (programs resulting in increased costs which local agency is required to incur), did not continue after it was specifically repealed, even though the Legislature, in enacting the statute, explained that the definition was declaratory of existing law. It is ordinarily presumed that the Legislature,

by deleting an express provision of a statute, intended a substantial change in the law.

[See **Am.Jur.2d,** Statutes, § 384.]

(3)
Constitutional Law § 13--Construction of Constitutions--Language of Enactment.
In construing the meaning of an initiative constitutional provision, a reviewing court's inquiry is focused on what the voters meant when they adopted the provision. To determine this intent, courts must look to the language of the provision itself.

(4)
Constitutional Law § 13--Construction of Constitutions--Language of Enactment--"Program."
The word "program," as used in Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), refers to programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on ***48** local governments and do not apply generally to all residents and entities in the state.

(5)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Governments--Increases in Workers' Compensation Benefits.
The provisions of Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), have no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations receive. Although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state- mandated programs or higher levels of service within the meaning of art. XIII B, § 6. Accordingly, the State Board of Control properly denied reimbursement to local governmental entities for costs incurred in providing state-mandated increases in workers' compensation benefits. (Disapproving *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 [203 Cal.Rptr. 258], to the extent it reached a different conclusion with respect to expenses incurred by local entities as the result of a newly enacted law requiring that all public employees be covered by unemployment insurance.)

[See **Cal.Jur.3d,** State of California, § 78.]

(6)
Constitutional Law § 14--Construction of Constitutions--Reconcilable and Irreconcilable Conflicts.
Controlling principles of construction require that in the absence of irreconcilable conflict among their various parts, constitutional provisions must be harmonized and construed to give effect to all parts.

(7)
Constitutional Law § 14--Construction of Constitutions--Reconcilable and Irreconcilable Conflicts--Pro Tanto Repeal of Constitutional Provision.
The goals of Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), were to protect residents from excessive taxation and government spending, and to preclude a shift of financial responsibility for governmental functions from the state to local agencies. Since these goals can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, the adoption of art. XIII B, § 6, did not effect a pro tanto repeal of Cal. Const., art. XIV, § 4, which gives the Legislature plenary power over workers' compensation. ***49**

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GRODIN, J.

We are asked in this proceeding to determine whether legislation enacted in 1980 and 1982 increasing certain workers' compensation benefit payments is subject to the command of article XIII B of the California Constitution that local government costs mandated by the state must be funded by the state. The County of Los Angeles and the City of Sonoma sought review by this court of a decision of the Court of Appeal which held that state-mandated increases in workers' compensation benefits that do not exceed the rise in the cost of living are not costs which must be borne by the state under article XIII B, an initiative constitutional provision, and legislative implementing statutes.

Although we agree that the State Board of Control properly denied plaintiffs' claims, our conclusion rests on grounds other than those relied upon by the Court of Appeal, and requires that its judgment be reversed. (1) We conclude that when the voters adopted article XIII B, section 6, their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expense or ***50** increased cost of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. In using the word "programs" they had in mind the commonly understood meaning of the term, programs which carry out the governmental function of providing services to the public. Reimbursement for the cost or increased cost of providing workers' compensation benefits to employees of local agencies is not, therefore, required by section 6.

We recognize also the potential conflict between article XIII B and the grant of plenary power over workers' compensation bestowed upon the Legislature by section 4 of article XIV, but in accord with established rules of construction our construction of article XIII B, section 6, harmonizes these constitutional provisions.

I

On November 6, 1979, the voters approved an initiative measure which added article XIII B to the California Constitution. That article imposed spending limits on the state and local governments and provided in section 6 (hereafter section 6): "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] (a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." No definition of the phrase "higher level of service" was included in article XIII B, and the ballot materials did not explain its meaning. [1]

The genesis of this action was the enactment in 1980 and 1982, after article XIII B had been adopted, of laws increasing the amounts which ***51** employers, including local governments, must pay in workers' compensation benefits to injured employees and families of deceased employees.

The first of these statutes, Assembly, Bill No. 2750 (Stats. 1980, ch. 1042, p. 3328), amended several sections of the Labor Code related to workers' compensation. The amendments of Labor Code sections 4453, 4453.1 and 4460 increased the maximum weekly wage upon which temporary and permanent disability indemnity is computed from $231 per week to $262.50 per week. The amendment of section 4702 of the Labor Code increased certain death benefits from $55,000 to $75,000. No appropriation for increased state-mandated costs was made in this legislation. [2]

Test claims seeking reimbursement for the increased expenditure mandated by these changes were filed with the State Board of Control in 1981 by the County of San Bernardino and the City of Los Angeles. The board rejected the claims, after hearing, stating that the increased maximum workers' compensation benefit levels did not change the terms or conditions under which benefits were to be awarded, and therefore did not, by increasing the dollar amount of the benefits, create an increased level of service. The first of these consolidated actions was then filed by the County of Los Angeles, the County of San Bernardino, and the City of San Diego, seeking a writ of mandate to compel the board to approve the reimbursement claims for costs incurred in

providing an increased level of service mandated by the state pursuant to Revenue and Taxation Code section 2207. [3] They also sought a declaration that because the State of California and the board were obliged by article XIII B to reimburse them, they were not obligated to pay the increased benefits until the state provided reimbursement.

The superior court denied relief in that action. The court recognized that although increased benefits reflecting cost of living raises were not expressly ***52** excepted from the requirement of state reimbursement in section 6 the intent of article XIII B to limit governmental expenditures to the prior year's level allowed local governments to make adjustment for changes in the cost of living, by increasing their own appropriations. Because the Assembly Bill No. 2750 changes did not exceed cost of living changes, they did not, in the view of the trial court, create an "increased level of service " in the existing workers' compensation program.

The second piece of legislation (Assem. Bill No. 684), enacted in 1982 (Stats. 1982, ch. 922. p. 3363), again changed the benefit levels for workers' compensation by increasing the maximum weekly wage upon which benefits were to be computed, and made other changes among which were: The bill increased minimum weekly earnings for temporary and permanent total disability from $73.50 to $168, and the maximum from $262.50 to $336. For permanent partial disability the weekly wage was raised from a minimum of $45 to $105, and from a maximum of $105 to $210, in each case for injuries occurring on or after January 1, 1984. (Lab. Code, § 4453.) A $10,000 limit on additional compensation for injuries resulting from serious and willful employer misconduct was removed (Lab. Code, § 4553), and the maximum death benefit was raised from $75,000 to $85,000 for deaths in 1983, and to $95,000 for deaths on or after January 1, 1984. (Lab. Code, § 4702.)

Again the statute included no appropriation and this time the statute expressly acknowledged that the omission was made "[n]otwithstanding section 6 of Article XIIIB of the California Constitution and section 2231 ... of the Revenue and Taxation Code." (Stats. 1982, ch. 922, § 17, p. 3372.) [4]

Once again test claims were presented to the State Board of Control, this time by the City of Sonoma, the County of Los Angeles, and the City of San Diego. Again the claims were denied on grounds that the statute made no change in the terms and conditions under which workers' compensation benefits were to be awarded, and the increased costs incurred as a result of higher benefit levels did not create an increased level of service as defined in Revenue and Taxation Code section 2207, subdivision (a).

The three claimants then filed the second action asking that the board be compelled by writ of mandate to approve the claims and the state to pay them, and that chapter 922 be declared unconstitutional because it was not adopted in conformity with requirements of the Revenue and Taxation Code or ***53** section 6. The trial court granted partial relief and ordered the board to set aside its ruling. The court held that the board's decision was not supported by substantial evidence and legally adequate findings on the presence of a state-mandated cost. The basis for this ruling was the failure of the board to make adequate findings on the possible impact of changes in the burden of proof in some workers' compensation proceedings (Lab. Code, § 3202.5); a limitation on an injured worker's right to sue his employer under the "dual capacity" exception to the exclusive remedy doctrine (Lab. Code, §§ 3601-3602); and changes in death and disability benefits and in liability in serious and wilful misconduct cases. (Lab. Code, § 4551.)

The court also held: "[T]he changes made by chapter 922, Statutes of 1982 may be excluded from state-mandated costs if that change effects a cost of living increase which does not impose a higher or increased level of service on an existing program." The City of Sonoma, the County of Los Angeles, and the City of San Diego appeal from this latter portion of the judgment only.

II

The Court of Appeal consolidated the appeals. The court identified the dispositive issue as whether legislatively mandated increases in workers' compensation benefits constitute a "higher level of service" within the meaning of section 6, or are an "increased level of service" [5] described in subdivision (a) of Revenue and Taxation Code section 2207. The parties did not question the proposition that higher benefit payments might constitute a higher level of "service." The dispute centered on whether higher benefit payments which do not exceed increases in the cost of living constitute a higher level of service. Appellants maintained that the reimbursement requirement of section 6 is absolute and permits no implied or judicially created exception for increased costs that do not exceed the inflation rate. The

Court of Appeal addressed the problem as one of defining "increased level of service."

The court rejected appellants' argument that a definition of "increased level of service" that once had been included in section 2231, subdivision (e) of the Revenue and Taxation Code should be applied. That definition brought any law that imposed "additional costs" within the scope of "increased level of service." The court concluded that the repeal of section 2231 in 1975 (Stats. 1975, ch. 486, § 7, pp. 999-1000) and the failure of the Legislature by statute or the electorate in article XIII B to readopt the ***54** definition must be treated as reflecting an intent to change the law. (*Eu v. Chacon* (1976) 16 Cal.3d 465, 470 [128 Cal.Rptr. 1, 546 P.2d 289].) [6] On that basis the court concluded that increased costs were no longer tantamount to an increased level of service.

The court nonetheless assumed that an increase in costs mandated by the Legislature did constitute an increased level of service if the increase exceeds that in the cost of living. The judgment in the second, or "Sonoma " case was affirmed. The judgment in the first, or "Los Angeles" case, however, was reversed and the matter "remanded" to the board for more adequate findings, with directions. [7]

III

The Court of Appeal did not articulate the basis for its conclusion that costs in excess of the increased cost of living do constitute a reimbursable increased level of service within the meaning of section 6. Our task in ascertaining the meaning of the phrase is aided somewhat by one explanatory reference to this part of section 6 in the ballot materials.

A statutory requirement of state reimbursement was in effect when section 6 was adopted. That provision used the same "increased level of service " phraseology but it also failed to include a definition of "increased level of service," providing only: "Costs mandated by the state' means any increased costs which a local agency is required to incur as a result of the following: [¶] (a) Any law ... which mandates a new program or an increased level of service of an existing program." (Rev. & Tax. Code § 2207.) As noted, however, the definition of that term which had been ***55** included in Revenue and Taxation Code section 2164.3 as part of the Property Tax Relief Act of 1972 (Stats. 1972, ch. 1406, § 14.7, p. 2961), had been repealed in 1975 when Revenue and Taxation Code section 2231, which had replaced section 2164.3 in 1973, was repealed and a new section 2231 enacted. (Stats. 1975. ch. 486, §§ 6 & 7, p. 999.) [8] Prior to repeal, Revenue and Taxation Code section 2164.3, and later section 2231, after providing in subdivision (a) for state reimbursement, explained in subdivision (e) that " "Increased level of service' means any requirement mandated by state law or executive regulation ... which makes necessary expanded or additional costs to a county, city and county, city, or special district." (Stats. 1972, ch. 1406, § 14.7, p. 2963.)

(2) Appellants contend that despite its repeal, the definition is still valid, relying on the fact that the Legislature, in enacting section 2207, explained that the provision was "declaratory of existing law." (Stats. 1975, ch. 486, § 18.6, p. 1006.) We concur with the Court of Appeal in rejecting this argument. "[I]t is ordinarily to be presumed that the Legislature by deleting an express provision of a statute intended a substantial change in the law." (*Lake Forest Community Assn. v. County of Orange* (1978) 86 Cal.App.3d 394, 402 [150 Cal.Rptr. 286]; see also *Eu* v. *Chacon, supra*, 16 Cal.3d 465, 470.) Here, the revision was not minor: a whole subdivision was deleted. As the Court of Appeal noted, "A change must have been intended; otherwise deletion of the preexisting definition makes no sense."

Acceptance of appellants' argument leads to an unreasonable interpretation of section 2207. If the Legislature had intended to continue to equate "increased level of service" with "additional costs," then the provision would be circular: "costs mandated by the state" are defined as "increased costs" due to an "increased level of service," which, in turn, would be defined as "additional costs." We decline to accept such an interpretation. Under the repealed provision, "additional costs" may have been deemed tantamount to an "increased level of service," but not under the post-1975 statutory scheme. Since that definition has been repealed, an act of which the drafters of section 6 and the electorate are presumed to have been ***56** aware, we may not conclude that an intent existed to incorporate the repealed definition into section 6.

(3) In construing the meaning of the constitutional provision, our inquiry is not focussed on what the Legislature intended in adopting the former statutory reimbursement scheme, but rather on what the voters meant when they adopted article XIII B in 1979. To determine this intent, we must

look to the language of the provision itself. (*ITT World Communications, Inc. v. City and County of San Francisco* (1985) 37 Cal.3d 859, 866 [210 Cal.Rptr. 226, 693 P.2d 811].) In section 6, the electorate commands that the state reimburse local agencies for the cost of any "new program or higher level of service." Because workers' compensation is not a new program, the parties have focussed on whether providing higher benefit payments constitutes provision of a higher level of service. As we have observed, however, the former statutory definition of that term has been incorporated into neither section 6 nor the current statutory reimbursement scheme.

(4) Looking at the language of section 6 then, it seems clear that by itself the term "higher level of service" is meaningless. It must be read in conjunction with the predecessor phrase "new program" to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing "programs." But the term "program" itself is not defined in article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term—programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public. In their ballot arguments, the proponents of article XIII B explained section 6 to the voters: "Additionally, this measure: (1) Will not allow the state government to *force programs* on local governments without the state paying for them." (Ballot Pamp., Proposed Amend. to Cal. Const. with arguments to voters, Spec. Statewide Elec. (Nov. 6, 1979) p. 18. Italics added.) In this context the phrase "to force programs on local governments" confirms that the intent underlying section 6 was to require reimbursement to local agencies for the costs involved in carrying out functions peculiar to government, not ***57** for expenses incurred by local agencies as an incidental impact of laws that apply generally to all state residents and entities. Laws of general application are not passed by the Legislature to "force" programs on localities.

The language of section 6 is far too vague to support an inference that it was intended that each time the Legislature passes a law of general application it must discern the likely effect on local governments and provide an appropriation to pay for any incidental increase in local costs. We believe that if the electorate had intended such a far-reaching construction of section 6, the language would have explicitly indicated that the word "program" was being used in such a unique fashion. (Cf. *Fuentes v. Workers' Comp. Appeals Bd.* (1976) 16 Cal.3d 1, 7 [128 Cal.Rptr. 673, 547 P.2d 449]; *Big Sur Properties v. Mott* (1976) 63 Cal.App.3d 99, 105 [132 Cal.Rptr. 835].) Nothing in the history of article XIII B that we have discovered, or that has been called to our attention by the parties, suggests that the electorate had in mind either this construction or the additional indirect, but substantial impact it would have on the legislative process.

Were section 6 construed to require state subvention for the incidental cost to local governments of general laws, the result would be far-reaching indeed. Although such laws may be passed by simple majority vote of each house of the Legislature (art. IV, § 8, subd. (b)), the revenue measures necessary to make them effective may not. A bill which will impose costs subject to subvention of local agencies must be accompanied by a revenue measure providing the subvention required by article XIII B. (Rev. & Tax. Code, §§ 2255, subd. (c).) Revenue bills must be passed by two-thirds vote of each house of the Legislature. (Art. IV, § 12, subd. (d).) Thus, were we to construe section 6 as applicable to general legislation whenever it might have an incidental effect on local agency costs, such legislation could become effective only if passed by a supermajority vote.[9] Certainly no such intent is reflected in the language or history of article XIII B or section 6.

(5) We conclude therefore that section 6 has no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation ***58** benefits that employees of private individuals or organizations receive.[10] Workers' compensation is not a program administered by local agencies to provide service to the public. Although local agencies must provide benefits to their employees either through insurance or direct payment, they are

indistinguishable in this respect from private employers. In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the program. Workers' compensation is administered by the state through the Division of Industrial Accidents and the Workers' Compensation Appeals Board. (See Lab. Code, § 3201 et seq.) Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of section 6.

IV

(6) Our construction of section 6 is further supported by the fact that it comports with controlling principles of construction which "require that in the absence of irreconcilable conflict among their various parts, [constitutional provisions] must be harmonized and construed to give effect to all parts. (*Clean Air Constituency* v. *California State Air Resources Bd.* (1974) 1 Cal.3d 801, 813-814 [114 Cal.Rptr. 577, 523 P.2d 617]; *Serrano v. Priest* (1971) 5 Cal.3d 584, 596 [96 Cal.Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187]; *Select Base Materials v. Board of Equal.* (1959) 51 Cal.2d 640, 645 [335 P.2d 672].)" (*Legislature* v. *Deukmejian* (1983) 34 Cal.3d 658, 676 [194 Cal.Rptr. 781, 669 P.2d 17].)

Our concern over potential conflict arises because article XIV, section 4,[11] gives the Legislature "plenary power, unlimited by any provision of ***59** this Constitution" over workers' compensation. Although seemingly unrelated to workers' compensation, section 6, as we have shown, would have an indirect, but substantial impact on the ability of the Legislature to make future changes in the existing workers' compensation scheme. Any changes in the system which would increase benefit levels, provide new services, or extend current service might also increase local agencies' costs. Therefore, even though workers' compensation is a program which is intended to provide benefits to all injured or deceased employees and their families, because the change might have some incidental impact on local government costs, the change could be made only if it commanded a supermajority vote of two-thirds of the members of each house of the Legislature.

The potential conflict between section 6 and the plenary power over workers' compensation granted to the Legislature by article XIV, section 4 is apparent.

The County of Los Angeles, while recognizing the impact of section 6 on the Legislature's power over workers' compensation, argues that the "plenary power" granted by article XIV, section 4, is power over the substance of workers' compensation legislation, and that this power would be unaffected by article XIII B if the latter is construed to compel reimbursement. The subvention requirement, it is argued, is analogous to other procedural ***60** limitations on the Legislature, such as the "single subject rule" (art. IV, § 9), as to which article XIV, section 4, has no application. We do not agree. A constitutional requirement that legislation either exclude employees of local governmental agencies or be adopted by a supermajority vote would do more than simply establish a format or procedure by which legislation is to be enacted. It would place workers' compensation legislation in a special classification of substantive legislation and thereby curtail the power of a majority to enact substantive changes by any procedural means. If section 6 were applicable, therefore, article XIII B would restrict the power of the Legislature over workers' compensation.

The City of Sonoma concedes that so construed article XIII B *would* restrict the plenary power of the Legislature, and reasons that the provision therefore either effected a pro tanto repeal of article XIV, section 4, or must be accepted as a limitation on the power of the Legislature. We need not accept that conclusion, however, because our construction of section 6 permits the constitutional provisions to be reconciled.

Construing a recently enacted constitutional provision such as section 6 to avoid conflict with, and thus pro tanto repeal of, an earlier provision is also consistent with and reflects the principle applied by this court in *Hustedt v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]. There, by coincidence, article XIV, section 4, was the later provision. A statute, enacted pursuant to the plenary power of the Legislature over workers' compensation, gave the Workers' Compensation Appeals Board authority to discipline attorneys who appeared before it. If construed to include a transfer of the authority to discipline attorneys from the Supreme Court to the Legislature, or to delegate that power to the board, article

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XIV, section 4, would have conflicted with the constitutional power of this court over attorney discipline and might have violated the separation of powers doctrine. (Art. III, § 3.) The court was thus called upon to determine whether the adoption of article XIV, section 4, granting the Legislature plenary power over workers' compensation effected a pro tanto repeal of the preexisting, exclusive jurisdiction of the Supreme Court over attorneys.

We concluded that there had been no pro tanto repeal because article XIV, section 4, did not give the Legislature the authority to enact the statute. Article XIV, section 4, did not expressly give the Legislature power over attorney discipline, and that power was not integral to or necessary to the establishment of a complete system of workers' compensation. In those circumstances the presumption against implied repeal controlled. "It is well established that the adoption of article XIV, section 4 'effected a repeal *pro tanto*' of any state constitutional provisions which conflicted with that ***61** amendment. (*Subsequent Etc. Fund. v. Ind. Acc. Com.* (1952) 39 Cal.2d 83, 88 [244 P.2d 889]; *Western Indemnity Co.* v. *Pillsbury* (1915) 170 Cal. 686, 695, [151 P. 398].) A *pro tanto* repeal of conflicting state constitutional provisions removes 'insofar as necessary' any restrictions which would prohibit the realization of the objectives of the new article. (*Methodist Hosp. of Sacramento* v. *Saylor* (1971) 5 Cal.3d 685, 691-692 [97 Cal.Rptr. 1, 488 P.2d 161]; cf. *City and County of San Francisco v. Workers' Comp. Appeals Bd.* (1978) 22 Cal.3d 103, 115-117 [148 Cal.Rptr. 626, 583 P.2d 151].) Thus the question becomes whether the board must have the power to discipline attorneys if the objectives of article XIV, section 4 are to be effectuated. In other words, does the achievement of those objectives compel the modification of a power—the disciplining of attorneys—that otherwise rests exclusively with this court?" (*Hustedt v. Workers' Comp. Appeals Bd., supra*, 30 Cal.3d 329, 343.) We concluded that the ability to discipline attorneys appearing before it was not necessary to the expeditious resolution of workers' claims or the efficient administration of the agency. Thus, the absence of disciplinary power over attorneys would not preclude the board from achieving the objectives of article XIV, section 4, and no pro tanto repeal need be found.

(7) A similar analysis leads to the conclusion here that no pro tanto repeal of article XIV, section 4, was intended or made necessary here by the adoption of section 6. The goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending. (*Huntington Park Redevelopment Agency* v. *Martin* (1985) 38 Cal.3d 100, 109-110 [211 Cal.Rptr. 133, 695 P.2d 220].) Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs. Neither of these goals is frustrated by requiring local agencies to provide the same protections to their employees as do private employers. Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage—costs which all employers must bear—neither threatens excessive taxation or governmental spending, nor shifts from the state to a local agency the expense of providing governmental services.

Therefore, since the objectives of article XIII B and section 6 can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, section 6 did not effect a pro tanto repeal of the Legislature's otherwise plenary power over workers' compensation, a power that does not contemplate that the Legislature rather than the employer must fund the cost or increases in ***62** benefits paid to employees of local agencies, or that a statute affecting those benefits must garner a supermajority vote.

Because we conclude that section 6 has no application to legislation that is applicable to employees generally, whether public or private, and affects local agencies only incidentally as employers, we need not reach the question that was the focus of the decision of the Court of Appeal—whether the state must reimburse localities for state-mandated cost increases which merely reflect adjustments for cost-of-living in existing programs.

V

It follows from our conclusions above, that in each of these cases the plaintiffs' reimbursement claims were properly denied by the State Board of Control. Their petitions for writs of mandate seeking to compel the board to approve the claims

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lacked merit and should have been denied by the superior court without the necessity of further proceedings before the board.

In B001713, the Los Angeles case, the Court of Appeal reversed the judgment of the superior court denying the petition. In the B003561, the Sonoma case, the superior court granted partial relief, ordering further proceedings before the board, and the Court of Appeal affirmed that judgment.

The judgment of the Court of Appeal is reversed. Each side shall bear its own costs.

Bird, C. J., Broussard, J., Reynoso, J., Lucas, J., and Panelli, J., concurred.

MOSK, J.

I concur in the result reached by the majority, but I prefer the rationale of the Court of Appeal, i.e., that neither article XIII B, section 6, of the Constitution nor Revenue and Taxation Code sections 2207 and 2231 require state subvention for increased workers' compensation benefits provided by chapter 1042, Statutes of 1980, and chapter 922, Statutes of 1982, but only if the increases do not exceed applicable cost-of-living adjustments because such payments do not result in an increased level of service.

Under the majority theory, the state can order unlimited financial burdens on local units of government without providing the funds to meet those burdens. This may have serious implications in the future, and does violence to the requirement of section 2231, subdivision (a), that the state reimburse local government for "all costs mandated by the state."

In this instance it is clear from legislative history that the Legislature did not intend to mandate additional burdens, but merely to provide a cost-of-living ***63** adjustment. I agree with the Court of Appeal that this was permissible.

Appellants' petition for a rehearing was denied February 26, 1987. ***64**

Footnotes

1 The analysis by the Legislative Analyst advised that the state would be required to "reimburse local governments for the cost of complying with 'state mandates.' 'State mandates' are requirements imposed on local governments by legislation or executive orders." Elsewhere the analysis repeats: "[T]he initiative would establish a requirement that the state provide funds to reimburse local agencies for the cost of complying with state mandates. ...

The one ballot argument which made reference to section 6, referred only to the "new program" provision, stating, "Additionally, this measure [¶] (1) will not allow the state government to force programs on local governments without the state paying for them."

2 The bill was approved by the Governor and filed with the Secretary of State on September 22, 1980. Prior to this, the Assembly gave unanimous consent to a request by the bill's author that his letter to the Speaker stating the intent of the Legislation be printed in the Assembly Journal. The letter stated: (1) that the Assembly Ways and Means Committee had recommended approval without appropriation on grounds that the increases were a result of changes in the cost of living that were not reimbursable under either Revenue and Taxation Code section 2231, or article XIII B; (2) the Senate Finance Committee had rejected a motion to add an appropriation and had approved a motion to concur in amendments of the Conference Committee deleting any appropriation.

Legislative history confirms only that the final version of Assembly Bill No. 2750, as amended in the Assembly on April 16, 1986, contained no appropriation. As introduced on March 4, 1980, with a higher minimum salary of $510 on which to base benefits, an unspecified appropriation was included.

3 The superior court consolidated another action by the County of Butte, Novato Fire Protection District, and the Galt Unified School District with that action. Neither those plaintiffs nor the County of San Bernardino are parties to the appeal.

4 The same section "recognized," however, that a local agency "may pursue any remedies to obtain reimbursement available to it" under the statutes governing reimbursement for state-mandated costs in chapter 3 of the Revenue and Taxation Code, commencing with section 2201.

5 The court concluded that there was no legal or semantic difference in the meaning of the terms and considered the intent or purpose of the two provisions to be identical.

6 The Court of Appeal also considered the expression of legislative intent reflected in the letter by the author of Assembly Bill No. 2750 (see fn. 2, *ante*). While consideration of that expression of intent may have been proper in construing Assembly Bill No. 2750, we question its relevance to the proper construction of either section 6, adopted by the electorate in the prior year, or of Revenue and Taxation Code section 2207, subdivision (a) enacted in 1975. (Cf. *California Employment Stabilization Co.* v. *Payne* (1947) 31 Cal.2d 210, 213-214 [187 P.2d 702].) There is no assurance that the Assembly understood that its approval of printing a statement of intent as to the later bill was also to be read as a statement of intent regarding the earlier statute, and it was not relevant to the intent of the electorate in adopting section 6.

The Court of Appeal also recognized that the history of Assembly Bill No. 2750 and Statutes 1982, chapter 922, which demonstrated the clear intent of the Legislature to omit any appropriation for reimbursement of local government expenditures to pay the higher benefits precluded reliance on reimbursement provisions included in benefit-increase bills passed in earlier years. (See e.g., Stats. 1973, chs. 1021 and 1023.)

7 We infer that the intent of the Court of Appeal was to reverse the order denying the petition for writ of mandate and to order the superior court to grant the petition and remand the matter to the board with directions to set aside its order and reconsider the claim after making the additional findings. (See Code Civ. Proc. § 1094.5, subd. (f).)

8 Pursuant to the 1972 and successor 1973 property tax relief statutes the Legislature had included appropriations in measures which, in the opinion of the Legislature, mandated new programs or increased levels of service in existing programs (see, e.g., Stats. 1973, ch. 1021, § 4, p. 2026; ch. 1022, § 2, p. 2027; Stats. 1976, ch. 1017, § 9, p. 4597) and reimbursement claims filed with the State Board of Control pursuant to Revenue and Taxation Code sections 2218-2218.54 had been honored. When the Legislature fails to include such appropriations there is no judicially enforceable remedy for the statutory violation notwithstanding the command of Revenue and Taxation Code section 2231, subdivision (a) that "[t]he state shall reimburse each local agency for all 'costs mandated by the state,' as defined in Section 2207" and the additional command of subdivision (b) that any statute imposing such costs "provide an appropriation therefor." (*County of Orange v. Flournoy* (1974) 42 Cal.App.3d 908, 913 [117 Cal.Rptr. 224].)

9 Whether a constitutional provision which requires a supermajority vote to enact substantive legislation, as opposed to funding the program, may be validly enacted as a Constitutional amendment rather than through

revision of the Constitution is an open question. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 228 [149 Cal.Rptr. 239, 583 P.2d 1281].)

10 The Court of Appeal reached a different conclusion in *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 [203 Cal.Rptr. 258], with respect to a newly enacted law requiring that all public employees be covered by unemployment insurance. Approaching the question as to whether the expense was a "state mandated cost," rather than as whether the provision of an employee benefit was a "program or service" within the meaning of the Constitution, the court concluded that reimbursement was required. To the extent that this decision is inconsistent with our conclusion here, it is disapproved.

11 Section 4: "The Legislature is hereby *expressly vested with plenary power, unlimited by any provision of this Constitution*, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

"The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

"The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

"Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed." (Italics added.)

729 P.2d 202, 233 Cal.Rptr. 38

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15 Cal.4th 68, 931 P.2d 312, 61 Cal.Rptr.2d 134, Med & Med GD (CCH) P 45,112, 97 Cal. Daily Op. Serv. 1555, 97 Daily Journal D.A.R. 2296
Supreme Court of California

COUNTY OF SAN DIEGO, Cross-complainant and Respondent,
v.
THE STATE OF CALIFORNIA et al., Cross-defendants and Appellants.

No. S046843.
Mar 3, 1997.

SUMMARY

After a county's unsuccessful administrative attempts to obtain reimbursement from the state for expenses incurred through its County Medical Services (CMS) program, and after a class action was filed on behalf of CMS program beneficiaries seeking to enjoin termination of the program, the county filed a cross-complaint and petition for a writ of mandate (Code Civ. Proc., § 1085) against the state, the Commission on State Mandates, and various state officers, to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service). The county alleged that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The trial court found that the state had an obligation to fund the county's CMS program. (Superior Court of San Diego County, No. 634931, Michael I. Greer, * Harrison R. Hollywood, and Judith D. McConnell, Judges.) The Court of Appeal, Fourth Dist., Div. One, No. D018634, affirmed the judgment of the trial court insofar as it provided that Cal. Const., art. XIII B, § 6, required the state to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required the county to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. The Court of Appeal remanded to the commission to determine the reimbursement amount and appropriate statutory remedies.

The Supreme Court affirmed the judgment of the Court of Appeal insofar as it held that the exclusion of medically indigent adults from Medi-Cal imposed a mandate on the county within the meaning of Cal. Const., art. XIII B, § 6. The Supreme Court reversed the judgment insofar as it held that the state required the county to spend at least $41 million on the CMS ***69** program in fiscal years 1989-1990 and 1990-1991, and remanded the matter to the commission to determine whether, and by what amount, the statutory standards of care (e.g., Health & Saf. Code, § 1442.5, former subd. (c), Welf. & Inst. Code, §§ 10000, 17000) forced the county to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which the county was entitled. The court held that the trial court had jurisdiction to adjudicate the county's mandate claim, notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The court also held that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was Welf. & Inst. Code, § 17000, enacted in 1965, rather than the 1982 legislation, and since Cal. Const., art. XIII B, § 6, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, Welf. & Inst. Code, § 17000, requires a county to support indigent persons only in the event they are not assisted by other sources. The court further held that there was a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide the medical care. While Welf. & Inst. Code, § 17001, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of Welf. & Inst. Code, § 17000, or be struck down as void by the courts. The court also held that the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the commission to determine the amount of any reimbursement due, erred in finding the county had a minimum required expenditure on its CMS program. (Opinion by Chin, J., with

George, C. J., Mosk, and Baxter, JJ., Anderson, J.,* and Aldrich, J.,† concurring. Dissenting opinion by Kennard, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program.
***70** Cal. Const., art. XIII A, and art. XIII B, work in tandem, together restricting California governments' power both to levy and to spend for public purposes. Their goals are to protect residents from excessive taxation and government spending. The purpose of Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations that Cal. Const., arts. XIII A and XIII B, impose. With certain exceptions, Cal. Const., art. XIII B, § 6, essentially requires the state to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies.

(2a, 2b)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Jurisdiction--With Pending Test Claim.
The trial court had jurisdiction to adjudicate a county's mandate claim asserting the Legislature's transfer to counties of the responsibility for providing health care for medically indigent adults constituted a new program or higher level of service that required state funding under Cal. Const., art. XIII B, § 6 (reimbursement to local government for costs of new state-mandated program), notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The trial court's failure to defer to the primary jurisdiction of the other court did not prejudice the state. The trial court did not usurp the Commission on State Mandates' authority, since the commission had exercised its authority in the pending action. Since the pending action was settled, no multiple decisions resulted. Nor did lack of an administrative record prejudice the state, since determining whether a statute imposes a state mandate is an issue of law. Also, attempts to seek relief from the commission would have been futile, thus triggering the futility exception to the exhaustion requirement, given that the commission rejected the other county's claim.

(3)
Administrative Law § 99--Judicial Review and Relief--Administrative Mandamus--Jurisdiction--As Derived From Constitution.
The power of superior courts to perform mandamus review of administrative decisions derives in part from Cal. Const., art. VI, § 10. ***71** That section gives the Supreme Court, Courts of Appeal, and superior courts "original jurisdiction in proceedings for extraordinary relief in the nature of mandamus." The jurisdiction thus vested may not lightly be deemed to have been destroyed. While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication.

(4)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was Welf. & Inst. Code, § 17000, enacted in 1965, rather than the 1982 legislation, and since Cal. Const., art. XIII B, § 6, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, Welf. & Inst. Code, § 17000, requires a county to support indigent persons only in the event they are not assisted by other sources. To the extent care was provided

prior to the 1982 legislation, the county's obligation had been reduced. Also, the state's assumption of full funding responsibility prior to the 1982 legislation was not intended to be temporary. The 1978 legislation that assumed funding responsibility was limited to one year, but similar legislation in 1979 contained no such limiting language. Although the state asserted the health care program was never operated by the state, the Legislature, in adopting Medi-Cal, shifted responsibility for indigent medical care from counties to the state. Medi-Cal permitted county boards of supervisors to prescribe rules (Welf. & Inst. Code, § 14000.2), and Medi-Cal was administered by state departments and agencies.

[See 9 Witkin, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

(5a, 5b)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate--Discretion to Set Standards-- ***72** Eligibility.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care. While Welf. & Inst. Code, § 17001, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of Welf. & Inst. Code, § 17000 (counties shall relieve and support "indigent persons"), or be struck down as void by the courts. As to eligibility standards, counties must provide care to all adult medically indigent persons (MIP's). Although Welf. & Inst. Code, § 17000, does not define "indigent persons," the 1982 legislation made clear that adult MIP's were within this category. The coverage history of Medi-Cal demonstrates the Legislature has always viewed all adult MIP's as "indigent persons" under Welf. & Inst. Code, § 17000. The Attorney General also opined that the 1971 inclusion of MIP's in Medi-Cal did not alter the duty of counties to provide care to indigents not eligible for Medi-Cal, and this opinion was entitled to considerable weight. Absent controlling authority, the opinion was persuasive since it was presumed the Legislature was cognizant of the Attorney General's construction and would have taken corrective action if it disagreed. (Disapproving *Bay General Community Hospital v. County of San Diego* (1984) 156 Cal.App.3d 944 [203 Cal.Rptr. 184] insofar as it holds that a county's responsibility under Welf. & Inst. Code, § 17000, extends only to indigents as defined by the county's board of supervisors, and suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of Welf. & Inst. Code, § 17000, but do not qualify for Medi-Cal.)

(6)
Public Aid and Welfare § 4--County Assistance--Counties' Discretion.
Counties may exercise their discretion under Welf. & Inst. Code, § 17001 (county board of supervisors or authorized agency shall adopt standards of aid and care for indigent and dependent poor), only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose (Gov. Code, § 11374). Despite the counties' statutory discretion, courts have consistently invalidated county welfare regulations that fail to meet statutory requirements. ***73**

(7)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate--Discretion to Set Standards--Service.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care by setting its own service standards. Welf. & Inst. Code, § 17000, mandates that medical care be provided to indigents, and Welf. & Inst. Code, § 10000, requires that such care be provided promptly and humanely. There is no discretion concerning whether to provide such care. Courts construing Welf. & Inst. Code, § 17000, have

held it imposes a mandatory duty upon counties to provide medically necessary care, not just emergency care, and it has been interpreted to impose a minimum standard of care. Until its repeal in 1992, Health & Saf. Code, § 1442.5, former subd. (c), also spoke to the level of services that counties had to provide under Welf. & Inst. Code, § 17000, requiring that the availability and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county. (Disapproving *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706] to the extent it held that Health & Saf. Code, § 1442.5, former subd. (c), was merely a limitation on a county's ability to close facilities or reduce services provided in those facilities, and was irrelevant absent a claim that a county facility was closed or that services in the county were reduced.)

(8)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Minimum Required Expenditure.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), in which the trial court found that the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults mandated a reimbursable new program entitling the county to reimbursement, the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the Commission on State Mandates to determine the amount of any reimbursement due, erred in finding the county ***74** had a minimum required expenditure on its County Medical Services (CMS) program. The Court of Appeal relied on Welf. & Inst. Code, former § 16990, subd. (a), which set forth the financial maintenance-of-effort requirement for counties that received California Healthcare for the Indigent Program (CHIP) funding. However, counties that chose to seek CHIP funds did so voluntarily. Thus, Welf. & Inst. Code, former § 16990, subd. (a), did not mandate a minimum funding requirement. Nor did Welf. & Inst. Code, former § 16991, subd. (a)(5), establish a minimum financial obligation. That statute required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its allocation from various sources was less than the funding it received under Welf. & Inst. Code, § 16703, for 1988-1989. Nothing about this requirement imposed on the county a minimum funding requirement.

(9)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Proper Mandamus Proceeding:Mandamus and Prohibition § 23--Claim Against Commission on State Mandates.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), after the Commission on State Mandates indicated the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults did not mandate a reimbursable new program, a mandamus proceeding under Code Civ. Proc., § 1085, was not an improper vehicle for challenging the commission's position. Mandamus under Code Civ. Proc., § 1094.5, commonly denominated "administrative" mandamus, is mandamus still. The full panoply of rules applicable to ordinary mandamus applies to administrative mandamus proceedings, except where they are modified by statute. Where entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding under Code Civ. Proc., § 1085, as one brought under Code Civ. Proc., § 1094.5, and should overrule a demurrer asserting that the wrong mandamus statute has been invoked. In any event, the determination whether the statutes at issue established a mandate under Cal. Const., art. XIII B, § 6, was a question of law. Where a purely legal question is at issue, courts exercise independent judgment, no matter whether the issue arises by traditional or administrative mandate. ***75**

COUNSEL
Daniel E. Lungren, Attorney General, Charlton G. Holland III, Assistant Attorney General, John H. Sanders and Richard T. Waldow, Deputy Attorneys General, for Cross-defendants and Appellants.
Lloyd M. Harmon, Jr., County Counsel, John J. Sansone, Acting County Counsel, Diane Bardsley, Chief Deputy County Counsel, Valerie Tehan and Ian Fan, Deputy County Counsel, for Cross-complainant and Respondent.

CHIN, J.

Section 6 of article XIII B of the California Constitution (section 6) requires the State of California (state), subject

to certain exceptions, to "provide a subvention of funds to reimburse" local governments "[w]henever the Legislature or any state agency mandates a new program or higher level of service ...." In this action, the County of San Diego (San Diego or the County) seeks reimbursement under section 6 from the state for the costs of providing health care services to certain adults who formerly received medical care under the California Medical Assistance Program (Medi-Cal) (see Welf. & Inst. Code, § 14063) [1] because they were medically indigent, i.e., they had insufficient financial resources to pay for their own medical care. In 1979, when the electorate adopted section 6, the state provided Medi-Cal coverage to these medically indigent adults without requiring financial contributions from counties. Effective January 1, 1983, the Legislature excluded this population from Medi-Cal. (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357.) Since that date, San Diego has provided medical care to these individuals with varying levels of state financial assistance.

To resolve San Diego's claim, we must determine whether the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" on San Diego within the meaning of section 6. The Commission on State Mandates (Commission), which the Legislature created to determine claims under section 6, has ruled that section 6 does not apply to the Legislature's action and has rejected reimbursement claims like San Diego's. (See *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 330, fn. 2 [285 Cal.Rptr. 66, 814 P.2d 1308] (*Kinlaw*).) The trial court and Court of Appeal in this case disagreed with the Commission, finding that San Diego was entitled to reimbursement. The state seeks ***76** reversal of this finding. It also argues that San Diego's failure to follow statutory procedures deprived the courts of jurisdiction to hear its claim. We reject the state's jurisdictional argument and affirm the finding that the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" within the meaning of section 6. Accordingly, we remand the matter to the Commission to determine the amount of reimbursement, if any, due San Diego under the governing statutes.

I. Funding of Indigent Medical Care

Before the start of Medi-Cal, "the indigent in California were provided health care services through a variety of different programs and institutions." (Assem. Com. on Public Health, Preliminary Rep. on Medi-Cal (Feb. 29, 1968) p. 3 (Preliminary Report).) County hospitals "provided a wide range of inpatient and outpatient hospital services to all persons who met county indigency requirements whether or not they were public assistance recipients. The major responsibility for supporting county hospitals rested upon the counties, financed primarily through property taxes, with minor contributions from" other sources. (*Id.* at p. 4.)

Medi-Cal, which began operating March 1, 1966, established "a program of basic and extended health care services for recipients of public assistance and for medically indigent persons." (*Morris v. Williams* (1967) 67 Cal.2d 733, 738 [63 Cal.Rptr. 689, 433 P.2d 697] (*Morris*); *id.* at p. 740; see also Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 103.) It "represent[ed] California's implementation of the federal Medicaid program (42 U.S.C. §§ 1396-1396v), through which the federal government provide[d] financial assistance to states so that they [might] furnish medical care to qualified indigent persons. [Citation.]" (*Robert F. Kennedy Medical Center v. Belshé* (1996) 13 Cal.4th 748, 751 [55 Cal.Rptr.2d 107, 919 P.2d 721] (*Belshé*).) "[B]y meeting the requirements of federal law," Medi-Cal "qualif [ied] California for the receipt of federal funds made available under title XIX of the Social Security Act." (*Morris*, *supra*, 67 Cal.2d at p. 738.) "Title [XIX] permitted the combination of the major governmental health care systems which provided care for the indigent into a single system financed by the state and federal governments. By 1975, this system, at least as originally proposed, would provide a wide range of health care services for all those who [were] indigent regardless of whether they [were] public assistance recipients ...." (Preliminary Rep., *supra*, at p. 4; see also Act of July 30, 1965, Pub.L. No. 89-97, § 121(a), 79 Stat. 286, reprinted in 1965 U.S. Code ***77** Cong. & Admin. News, p. 378 [states must make effort to liberalize eligibility requirements "with a view toward furnishing by July 1, 1975, comprehensive care and services to substantially all individuals who meet the plan's eligibility standards with respect to income and resources"].) [2]

However, eligibility for Medi-Cal was initially limited only to persons linked to a federal categorical aid program by age (at least 65), blindness, disability, or membership in a family with dependent children within the meaning of the Aid to Families with Dependent Children program (AFDC). (See Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of

1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.) pp. 548, 550 (1971 Legislative Analyst's Report).) Individuals possessing one of these characteristics (categorically linked persons) received full benefits if they actually received public assistance payments. (*Id.* at p. 550.) Lesser benefits were available to categorically linked persons who were only medically indigent, i.e., their income and resources, although rendering them ineligible for cash aid, were "not sufficient to meet the cost of health care." (*Morris*, *supra*, 67 Cal.2d at p. 750; see also 1971 Legis. Analyst's Rep., *supra*, at pp. 548, 550; Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, pp. 105-106.)

Individuals not linked to a federal categorical aid program (non-categorically linked persons) were ineligible for Medi-Cal, regardless of their means. Thus, "a group of citizens, not covered by Medi-Cal and yet unable to afford medical care, remained the responsibility of" the counties. (*County of Santa Clara v. Hall* (1972) 23 Cal.App.3d 1059, 1061 [100 Cal.Rptr. 629] (*Hall*).) In establishing Medi-Cal, the Legislature expressly recognized this fact by enacting former section 14108.5, which provided: "The Legislature hereby declares its concern with the problems which will be facing the counties with respect to the medical care of indigent persons who are not covered [by Medi-Cal] ... and ... whose medical care must be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116.) The Legislature directed the Health Review and Program Council "to study this problem and report its findings to the Legislature no later than March 1, 1967." (*Ibid.*)

Moreover, although it required counties to contribute to the costs of Medi-Cal, the Legislature established a method for determining the amount of their contributions that would "leave them with []sufficient funds to provide hospital care for those persons not eligible for Medi-Cal." (*Hall*, *supra*, 23 Cal.App.3d at p. 1061, fn. omitted.) Former section 14150.1, ***78** which was known as the "county option" or the "option plan," required a county "to pay the state a sum equal to 100 percent of the county's health care costs (which included both linked and nonlinked individuals) provided in the 1964-1965 fiscal year, with an adjustment for population increase; in return the state would pay the county's entire cost of medical care." [3] (*County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 581 [159 Cal.Rptr. 1] (*Lackner*).) Under the county option, "the state agreed to assume all county health care costs ... in excess of" the county's payment. (*Id.* at p. 586.) It "made no distinction between 'linked' and 'nonlinked' persons," and "simply guaranteed a medical cost ceiling to counties electing to come within the option plan." (*Ibid.*) "Any difference in actual operating costs and the limit set by the option provision [was] assumed entirely by the state." (Preliminary Rep., *supra*, at p. 10, fn. 2.) Thus, the county option "guarantee[d] state participation in the cost of care for medically indigent persons who [were] not otherwise covered by the basic Medi-Cal program or other repayment programs." [4] (1971 Legis. Analyst's Rep., *supra*, at p. 549.)

Primarily through the county option, Medi-Cal caused a "significant shift in financing of health care from the counties to the state and federal government.... During the first 28 months of the program the state ... paid approximately $76 million for care of non-Medi-Cal indigents in county hospitals." (Preliminary Rep., *supra*, at p. 31.) These state funds paid "costs that would otherwise have been borne by counties through increases in property taxes." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1974-1975 Budget Bill, Sen. Bill No. 1525 (1973-1974 Reg. Sess.) p. 626 (1974 Legislative Analyst's Report).) "[F]aced with escalating Medi-Cal costs, the Legislature in 1967 imposed strict guidelines on reimbursing counties electing to come under the 'option' plan. ([Former] § 14150.2.) Pursuant to subdivision (c) of [former] section 14150.2, the state imposed a limit on its obligation to pay for medical services to nonlinked persons ***79** served by a county within the 'option' plan." (*Lackner*, *supra*, 97 Cal.App.3d at p. 589; see also Stats. 1967, ch. 104, § 3, p. 1019; Stats. 1969, ch. 21, § 57, pp. 106-107; 1974 Legis. Analyst's Rep., *supra*, at p. 626.)

In 1971, the Legislature substantially revised Medi-Cal. It extended coverage to certain noncategorically linked minors and adults "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83; see Stats. 1971, ch. 577, §§ 12, 23, pp. 1110-1111, 1115.) These medically indigent individuals met "the income and resource requirements for aid under [AFDC] but [did] not otherwise qualify[] as a public assistance recipient." (56 Ops.Cal.Atty.Gen. 568, 569 (1973).) The Legislature anticipated that this eligibility expansion would bring "approximately 800,000 additional medically needy Californians" into Medi-Cal. (Stats. 1971, ch. 577, § 56, p. 1136.) The 1971 legislation referred to these individuals as " '[n]oncategorically related needy person [s].' " (Stats. 1971, ch. 577, § 23, p. 1115.) Subsequent legislation designated them as "medically indigent person[s]" (MIP's) and provided

them coverage under former section 14005.4. (Stats. 1976, ch. 126, § 7, p. 200; *id.* at § 20, p. 204.)

The 1971 legislation also established a new method for determining each county's financial contribution to Medi-Cal. The Legislature eliminated the county option by repealing former section 14150.1 and enacting former section 14150. That section specified (by amount) each county's share of Medi-Cal costs for the 1972-1973 fiscal year and set forth a formula for increasing the share in subsequent years based on the taxable assessed value of certain property. (Stats. 1971, ch. 577, §§ 41, 42, pp. 1131-1133.)

For the 1978-1979 fiscal year, the state assumed each county's share of Medi-Cal costs under former section 14150. (Stats. 1978, ch. 292, § 33, p. 610.) In July 1979, the Legislature repealed former section 14150 altogether, thereby eliminating the counties' responsibility to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 74, p. 1043.) Thus, in November 1979, when the electorate adopted section 6, "the state was funding Medi-Cal coverage for [MIP's] without requiring any county financial contribution." (*Kinlaw, supra*, 54 Cal.3d at p. 329.) The state continued to provide full funding for MIP medical care through 1982.

In 1982, the Legislature passed two Medi-Cal reform bills that, as of January 1, 1983, excluded from Medi-Cal most adults who had been eligible ***80** under the MIP category (adult MIP's or Medically Indigent Adults).[5] (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357; *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401, 411 [261 Cal.Rptr. 706] (*Cooke*).) As part of excluding this population from Medi-Cal, the Legislature created the Medically Indigent Services Account (MISA) as a mechanism for "transfer[ing] [state] funds to the counties for the provision of health care services." (Stats. 1982, ch. 1594, § 86, p. 6357.) Through MISA, the state annually allocated funds to counties based on "the average amount expended" during the previous three fiscal years on Medi-Cal services for county residents who had been eligible as MIP's. (Stats. 1982, ch. 1594, § 69, p. 6345.) The Legislature directed that MISA funds "be consolidated with existing county health services funds in order to provide health services to low-income persons and other persons not eligible for the Medi-Cal program." (Stats. 1982, ch. 1594, § 86, p. 6357.) It further provided: "Any person whose income and resources meet the income and resource criteria for certification for [Medi-Cal] services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.)

After passage of the 1982 legislation, San Diego established a county medical services (CMS) program to provide medical care to adult MIP's. According to San Diego, between 1983 and June 1989, the state fully funded San Diego's CMS program through MISA. However, for fiscal years 1989-1990 and 1990-1991, the state only partially funded San Diego's CMS program. For example, San Diego asserts that, in fiscal year 1990-1991, it exhausted state-provided MISA funds by December 24, 1990. Faced with this shortfall, San Diego's board of supervisors voted in February 1991 to terminate the CMS program unless the state agreed by March 8 to provide full funding for the 1990-1991 fiscal year. After the state refused to provide additional funding, San Diego notified affected individuals and medical service providers that it would terminate the CMS program at midnight on March 19, 1991. The response to the County's notification ultimately resulted in the unfunded mandate claim now before us.

II. Unfunded Mandates

Through adoption of Proposition 13 in 1978, the voters added article XIII A to the California Constitution, which "imposes a limit on the power of state and local governments to adopt and levy taxes. [Citation.]" (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486 [***81** 280 Cal.Rptr. 92, 808 P.2d 235] (*County of Fresno*).) The next year, the voters added article XIII B to the Constitution, which "impose[s] a complementary limit on the rate of growth in governmental spending." (*San Francisco Taxpayers Assn. v. Board of Supervisors* (1992) 2 Cal.4th 571, 574 [7 Cal.Rptr.2d 245, 828 P.2d 147].) (1) These two constitutional articles "work in tandem, together restricting California governments' power both to levy and to spend for public purposes." (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522].) Their goals are "to protect residents from excessive taxation and government spending. [Citation.]" (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 61 [233 Cal.Rptr. 38, 729 P.2d 202] (*County of Los Angeles*).)

California Constitution, article XIII B includes section 6, which is the constitutional provision at issue here. It

provides in relevant part: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] ... [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." Section 6 recognizes that articles XIII A and XIII B severely restrict the taxing and spending powers of local governments. (*County of Fresno*, *supra*, 53 Cal.3d at p. 487.) Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are "ill equipped" to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose. (*County of Fresno*, *supra*, 53 Cal.3d at p. 487; *County of Los Angeles*, *supra*, 43 Cal.3d at p. 61.) With certain exceptions, section 6 "[e]ssentially" requires the state "to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [Citation.]" (*Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577 [15 Cal.Rptr.2d 547].)

In 1984, the Legislature created a statutory procedure for determining whether a statute imposes state-mandated costs on a local agency within the meaning of section 6. (Gov. Code, § 17500 et seq.). The local agency must file a test claim with the Commission, which, after a public hearing, decides whether the statute mandates a new program or increased level of service. (Gov. Code, §§ 17521, 17551, 17555.) If the Commission finds a claim to be reimbursable, it must determine the amount of reimbursement. (Gov. Code, § 17557.) The local agency must then follow certain statutory procedures to ***82** obtain reimbursement. (Gov. Code, § 17558 et seq.) If the Legislature refuses to appropriate money for a reimbursable mandate, the local agency may file "an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c).) If the Commission finds no reimbursable mandate, the local agency may challenge this finding by administrative mandate proceedings under section 1094.5 of the Code of Civil Procedure. (Gov. Code, § 17559.) Government Code section 17552 declares that these provisions "provide the sole and exclusive procedure by which a local agency ... may claim reimbursement for costs mandated by the state as required by Section 6 ...."

III. Administrative and Judicial Proceedings

A. *The Los Angeles Action*

On November 23, 1987, the County of Los Angeles (Los Angeles) filed a claim (the Los Angeles action) with the Commission asserting that the exclusion of adult MIP's from Medi-Cal constituted a reimbursable mandate under section 6. (*Kinlaw*, *supra*, 54 Cal.3d at p. 330, fn. 2.) Alameda County subsequently filed a claim on November 30, 1987, but the Commission rejected it because of the pending Los Angeles action. (*Id.* at p. 331, fn. 4.) Los Angeles refused to permit Alameda County to join as a claimant, but permitted San Bernardino County to join. (*Ibid.*)

In April 1989, the Commission rejected the Los Angeles claim, finding no reimbursable mandate.[6] (*Kinlaw*, *supra*, 54 Cal.3d at p. 330, fn. 2.) It found that the 1982 legislation did not impose on counties a new program or a higher level of service for an existing program because counties had a "pre-existing duty" to provide medical care to the medically indigent under section 17000. That section provides in relevant part: "Every county ... shall relieve and support all incompetent, poor, indigent persons ... lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." Section 17000 did not impose a reimbursable mandate under section 6, the Commission further reasoned, because it "was enacted prior to January 1, 1975 ...." Finally, the Commission found no mandate because the 1982 legislation "neither establish[ed] the level of care to be provided nor ... define[d] the class of persons determined to be eligible for medical care since these criteria were established by boards of supervisors" pursuant to section 17001.

On March 20, 1990, the Los Angeles Superior Court filed a judgment reversing the Commission's decision and directing issuance of a peremptory ***83** writ of mandate. On April 16, 1990, the Commission and the state filed an appeal in the Second District Court of Appeal. (*County of Los Angeles v. State of California*, No. B049625.)[7] In early 1992, the parties to the Los Angeles action agreed to settle their dispute and to seek dismissal. In April 1992, after learning of this

agreement, San Diego sought to intervene. Explaining that it had been waiting for resolution of the action, San Diego requested that the Court of Appeal deny the dismissal request and add (or substitute in) the County as a party. The Court of Appeal did not respond. On December 15, 1992, the parties to the Los Angeles action entered into a settlement agreement that provided for vacation of the superior court judgment and dismissal of the appeal and superior court action. Consistent with the settlement agreement, on December 29, 1992, the Court of Appeal filed an order vacating the superior court judgment, dismissing the appeal, and instructing the superior court to dismiss the action without prejudice on remand. [8]

B. *The San Diego Action*

1. *Administrative Attempts to Obtain Reimbursement*

On March 13, 1991, San Diego submitted an invoice to the State Controller seeking reimbursement of its uncompensated expenditures on the CMS program for fiscal year 1989-1990. The Controller is a member of the Commission. (Gov. Code, § 17525.) On April 12, the Controller returned the invoice "without action," stating that "[n]o appropriation has been given to this office to allow for reimbursement" of medical costs for adult MIP's and noting that litigation was pending regarding the state's reimbursement obligation. On December 18, 1991, San Diego submitted a similar invoice for the 1990-1991 fiscal year. The state has not acted regarding this second invoice. ***84**

2. *Court Proceedings*

Responding to San Diego's notice of intent to terminate the CMS program, on March 11, 1991, the Legal Aid Society of San Diego filed a class action on behalf of CMS program beneficiaries seeking to enjoin termination of the program. The trial court later issued a preliminary injunction prohibiting San Diego "from taking any action to reduce or terminate" the CMS program.

On March 15, 1991, San Diego filed a cross-complaint and petition for writ of mandate under Code of Civil Procedure section 1085 against the state, the Commission, and various state officers. [9] The cross-complaint alleged that, by excluding adult MIP's from Medi-Cal and transferring responsibility for their medical care to counties, the state had mandated a new program and higher level of service within the meaning of section 6. The cross-complaint further alleged that the state therefore had a duty under section 6 to reimburse San Diego for the entire cost of its CMS program, and that the state had failed to perform its duty.

Proceeding from these initial allegations, the cross-complaint alleged causes of action for indemnification, declaratory and injunctive relief, reimbursement and damages, and writ of mandate. In its first declaratory relief claim, San Diego alleged (on information and belief) that the state contended the CMS program was a nonreimbursable, county obligation. In its claim for reimbursement, San Diego alleged (again on information and belief) that the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement from the State for the costs of such programs." "Under these circumstances," San Diego asserted, "denial of the County's claim by the Commission ... is virtually certain and further administrative pursuit of this claim would be a futile act."

For relief, San Diego requested a judgment declaring the following: (1) that the state must fully reimburse San Diego if it "is compelled to provide any CMS Program services to plaintiffs ... after March 19, 1991"; (2) that section 6 requires the state "to fully fund the CMS Program" (or, alternatively, that the CMS program is discretionary); (3) that the state must pay San Diego for all of its unreimbursed costs for the CMS program during the ***85** 1989-1990 and 1990-1991 fiscal years; and (4) that the state shall assume responsibility for operating any court-ordered continuation of the CMS program. San Diego also requested that the court issue a writ of mandamus requiring the state to fulfill its reimbursement obligation. Finally, San Diego requested issuance of preliminary and permanent injunctions to ensure that the state fulfilled its obligations to the County.

In April 1991, San Diego determined that it could continue operating the CMS program using previously unavailable general fund revenues. Accordingly, San Diego and plaintiffs settled their dispute, and plaintiffs dismissed their complaint.

The matter proceeded solely on San Diego's cross-complaint. The court issued a preliminary injunction and alternative writ in May 1991. At a hearing on June 25, 1991, the court found that the state had an obligation to fund San Diego's CMS program, granted San Diego's request for a writ of mandate, and scheduled an evidentiary hearing to determine damages and remedies. On July 1, 1991, it issued an order reflecting this ruling and granting a peremptory writ of mandate. The writ did not issue, however, because of the pending hearing

to determine damages. In December 1992, after an extensive evidentiary hearing and posthearing proceedings on the claim for a peremptory writ of mandate, the court issued a judgment confirming its jurisdiction to determine San Diego's claim, finding that section 6 required the state to fund the entire cost of San Diego's CMS program, determining the amount that the state owed San Diego for fiscal years 1989-1990 and 1990-1991, identifying funds available to the state to satisfy the judgment, and ordering issuance of a peremptory writ of mandate. [10] The court also issued a peremptory writ of mandate directing the state and various state officers to comply with the judgment.

The Court of Appeal affirmed the judgment insofar as it provided that section 6 requires the state to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required San Diego to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. It remanded the matter to the Commission to determine the reimbursement amount and appropriate statutory remedies. We then granted the state's petition for review.

IV. Superior Court Jurisdiction

(2a) Before reaching the merits of the appeal, we must address the state's assertion that the superior court lacked jurisdiction to hear San ***86** Diego's mandate claim. According to the state, in *Kinlaw*, *supra*, 54 Cal.3d 326, we "unequivocally held that the orderly determination of [unfunded] mandate questions demands that only one claim on any particular alleged mandate be entertained by the courts at any given time." Thus, if a test claim is pending, "other potential claims must be held in abeyance ...." Applying this principle, the state asserts that, since "the test claim litigation was pending" in the Los Angeles action when San Diego filed its cross-complaint seeking mandamus relief, "the superior court lacked jurisdiction from the outset, and the resulting judgment is a nullity. That defect cannot be cured by the settlement of the test claim, which occurred after judgment was entered herein."

In *Kinlaw*, we held that individual taxpayers and recipients of government benefits lack standing to enforce section 6 because the applicable administrative procedures, which "are the exclusive means" for determining and enforcing the state's section 6 obligations, "are available only to local agencies and school districts directly affected by a state mandate ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 328.) In reaching this conclusion, we explained that the reimbursement right under section 6 "is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services." (*Id.* at p. 334.) We concluded that "[n]either public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to such revenues." (*Id.* at p. 335.)

In finding that individuals do not have standing to enforce the section 6 rights of local agencies, we made several observations in *Kinlaw* pertinent to operation of the statutory process as it applies to entities that do have standing. Citing Government Code section 17500, we explained that "the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6 ... because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process." (*Kinlaw*, *supra*, 54 Cal.3d at p. 331.) Thus, the governing statutes "establish[] procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created." (*Id.* at p. 333.) Specifically, "[t]he legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies ...." (*Id.* at p. 331.) Describing the Commission's application of the test-claim procedure to claims regarding exclusion of adult MIP's from Medi-Cal, we observed: "The test claim by the County of Los Angeles was filed prior to that ***87** proposed by Alameda County. The Alameda County claim was rejected for that reason. (See [Gov. Code,] § 17521.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the [adult MIP exclusion] issues .... Los Angeles County declined a request from Alameda County that it be included in the test claim ...." (*Id.* at p. 331, fn. 4.)

Consistent with our observations in *Kinlaw*, we here agree with the state that the trial court should not have proceeded to resolve San Diego's claim for reimbursement under section 6 while the Los Angeles action was pending. A contrary conclusion would undermine one of "the express purpose[s]"

of the statutory procedure: to "avoid[] multiple proceedings ... addressing the same claim that a reimbursable state mandate has been created." (*Kinlaw*, *supra*, 54 Cal.3d at p. 333.)

(3) However, we reject the state's assertion that the error was jurisdictional. The power of superior courts to perform mandamus review of administrative decisions derives in part from article VI, section 10 of the California Constitution. (*Bixby v. Pierno* (1971) 4 Cal.3d 130, 138 [93 Cal.Rptr. 234, 481 P.2d 242]; *Lipari v. Department of Motor Vehicles* (1993) 16 Cal.App.4th 667, 672 [20 Cal.Rptr.2d 246].) That section gives "[t]he Supreme Court, courts of appeal, [and] superior courts ... original jurisdiction in proceedings for extraordinary relief in the nature of mandamus ...." (Cal. Const., art. VI, § 10.) "The jurisdiction thus vested may not lightly be deemed to have been destroyed." (*Garrison v. Rourke* (1948) 32 Cal.2d 430, 435 [196 P.2d 884], overruled on another ground in *Keane v. Smith* (1971) 4 Cal.3d 932, 939 [95 Cal.Rptr. 197, 485 P.2d 261].) "While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. [Citations.] Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication." (*Garrison*, *supra*, at p. 436.) (2b) Here, we find no statutory provision that either "expressly provide[s]" (*id.* at p. 435) or otherwise "clearly intend[s]" (*id.* at p. 436) that the Legislature intended to divest all courts other than the court hearing the test claim of their mandamus jurisdiction.

Rather, following *Dowdall v. Superior Court* (1920) 183 Cal. 348 [191 P. 685] (*Dowdall*), we interpret the governing statutes as simply vesting primary jurisdiction in the court hearing the test claim. In *Dowdall*, we determined the jurisdictional effect of Code of Civil Procedure former section 1699 on actions to settle the account of trustees of a testamentary trust. Code of Civil Procedure former section 1699 provided in part: "Where any trust ***88** has been created by or under any will to continue after distribution, the Superior Court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trust." (Stats. 1889, ch. 228, § 1, p. 337.) We explained that, under this section, "the superior court, sitting in probate upon the distribution of an estate wherein the will creates a trust, retain[ed] jurisdiction of the estate for the purpose of the settlement of the accounts under the trust." (*Dowdall*, *supra*, 183 Cal. at p. 353.) However, we further observed that "the superior court of each county in the state has general jurisdiction in equity to settle trustees' accounts and to entertain actions for injunctions. This jurisdiction is, in a sense, concurrent with that of the superior court, which, by virtue of the decree of distribution, has jurisdiction of a trust created by will. The latter, however, is the primary jurisdiction, and if a bill in equity is filed in any other superior court for the purpose of settling the account of such trustee, that court, upon being informed of the jurisdiction of the court in probate and that an account is to be or has been filed therein for settlement, should postpone the proceeding in its own case and allow the account to be settled by the court having primary jurisdiction thereof." (*Ibid.*)

Similarly, we conclude that, under the statutes governing determination of unfunded mandate claims, the court hearing the test claim has primary jurisdiction. Thus, if an action asserting the same unfunded mandate claim is filed in any other superior court, that court, upon being informed of the pending test claim, should postpone the proceeding before it and allow the court having primary jurisdiction to determine the test claim.

However, a court's erroneous refusal to stay further proceedings does not render those further proceedings void for lack of jurisdiction. As we explained in *Dowdall*, a court that refuses to defer to another court's primary jurisdiction "is not without jurisdiction." (*Dowdall*, *supra*, 183 Cal. at p. 353.) Accordingly, notwithstanding pendency of the Los Angeles action, the trial court here did not lack jurisdiction to determine San Diego's mandamus petition. (See *Collins v. Ramish* (1920) 182 Cal. 360, 366-369 [188 P. 550] [although trial court erred in refusing to abate action because of former action pending, new trial was not warranted on issues that the trial court correctly decided]; *People* ex rel. *Garamendi v. American Autoplan, Inc.* (1993) 20 Cal.App.4th 760, 772 [25 Cal.Rptr.2d 192] (*Garamendi*) ["rule of exclusive concurrent jurisdiction is not 'jurisdictional' in the sense that failure to comply renders subsequent proceedings void"]; *Stearns v. Los Angeles City School Dist.* (1966) 244 Cal.App.2d 696, 718 [53 Cal.Rptr. 482, 21 A.L.R.3d 164] [where trial court errs in failing to stay proceedings in ***89** deference

to jurisdiction of another court, reversal would be frivolous absent errors regarding the merits].) [11]

The trial court's failure to defer to the primary jurisdiction of the court hearing the Los Angeles action did not prejudice the state. Contrary to the state's assertion, the trial court did not "usurp" the Commission's "authority to determine, in the first place, whether or not legislation creates a mandate." The Commission had already exercised that authority in the Los Angeles action. Moreover, given the settlement of the Los Angeles action, which included vacating the judgment in that action, the trial court's exercise of jurisdiction here did not result in one of the principal harms that the statutory procedure seeks to prevent: multiple decisions regarding an unfunded mandate question. Finally, the lack of an administrative record specifically relating to San Diego's claim did not prejudice the state because the threshold determination of whether a statute imposes a state mandate is an issue of law. (*County of Fresno v. Lehman* (1991) 229 Cal.App.3d 340, 347 [280 Cal.Rptr. 310].) To the extent that an administrative record was necessary, the record developed in the Los Angeles action could have been submitted to the trial court. [12] (See *Los Angeles Unified School Dist. v. State of California* (1988) 199 Cal.App.3d 686, 689 [245 Cal.Rptr. 140].)

We also find that, on the facts of this case, San Diego's failure to submit a test claim to the Commission before seeking judicial relief did not affect the superior court's jurisdiction. Ordinarily, counties seeking to pursue an unfunded mandate claim under section 6 must exhaust their administrative remedies. (*Central Delta Water Agency v. State Water Resources Control Bd.* (1993) 17 Cal.App.4th 621, 640 [21 Cal.Rptr.2d 453]; *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 73-77 [222 Cal.Rptr. 750] (*County of Contra Costa*).) However, counties may pursue section 6 claims in superior court without first resorting to administrative remedies if they "can establish an exception to" the exhaustion requirement. (*County of Contra Costa*, *supra*, 177 Cal.App.3d at p. 77.) The futility exception to the exhaustion requirement applies if a county can "state with assurance that the [Commission] would rule adversely in its own particular case. [Citations.]" (*Lindeleaf v. Agricultural Labor Relations Bd.* (1986) 41 Cal.3d 861, 870 [226 Cal.Rptr. 119, 718 P.2d 106]; see also *County of Contra Costa*, *supra*, 177 Cal.App.3d at pp. 77-78.) ***90**

We agree with the trial court and the Court of Appeal that the futility exception applied in this case. As we have previously noted, San Diego invoked this exception by alleging in its cross-complaint that the Commission's denial of its claim was "virtually certain" because the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement ...." Given that the Commission rejected the Los Angeles claim (which alleged the same unfunded mandate claim that San Diego alleged) and appealed the judicial reversal of its decision, the trial court correctly determined that further attempts to seek relief from the Commission would have been futile. Therefore, we reject the state's jurisdictional argument and proceed to the merits of the appeal.

V. Existence of a Mandate Under Section 6

(4) In determining whether there is a mandate under section 6, we turn to our decision in *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830 [244 Cal.Rptr. 677, 750 P.2d 318] (*Lucia Mar*). There, we discussed section 6's application to Education Code section 59300, which "requires a school district to contribute part of the cost of educating pupils from the district at state schools for the severely handicapped." (*Lucia Mar*, *supra*, at p. 832.) Before 1979, the Legislature had statutorily required school districts "to contribute to the education of pupils from the districts at the state schools [citations] ...." (*Id.* at pp. 832-833.) The Legislature repealed the statutory requirements in 1979 and, on July 12, 1979, the state assumed full-funding responsibility. (*Id.* at p. 833.) On July 1, 1980, when section 6 became effective, the state still had full-funding responsibility. On June 28, 1981, Education Code section 59300 took effect. (*Lucia Mar*, *supra*, at p. 833.)

Various school districts filed a claim seeking reimbursement under section 6 for the payments that Education Code section 59300 requires. The Commission denied the claim, finding that the statute did not impose on the districts a new program or higher level of service. The trial court and Court of Appeal agreed, the latter "reasoning that a shift in the funding of an existing program is not a new program or a higher level of service" under section 6. (*Lucia Mar*, *supra*, 44 Cal.3d at p. 834.)

We reversed, finding that a contrary result would "violate the intent underlying section 6 ...." (*Lucia Mar*, *supra*, 44 Cal.3d at p. 835.) That section "was intended to preclude the state

from shifting to local agencies the financial responsibility for providing public services in view of the [] ***91** restrictions on the taxing and spending power of the local entities" that articles XIII A and XIII B of the California Constitution imposed. (*Lucia Mar*, *supra*, at pp. 835-836.) "The intent of the section would plainly be violated if the state could, while retaining administrative control of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate section 6 ... because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIII B*, the result seems equally violative of the fundamental purpose underlying section 6 ...." (*Id.* at p. 836, italics added, fn. omitted.) We thus concluded in *Lucia Mar* "that because [Education Code] section 59300 shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts —an obligation the school districts did not have at the time article XIII B was adopted—it calls for [the school districts] to support a 'new program' within the meaning of section 6." (*Ibid.*, fn. omitted.)

The similarities between *Lucia Mar* and the case before us "are striking. In *Lucia Mar*, prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-197[8] the state and county shared the cost of caring for [adult MIP's] under the Medi-Cal program.... [F]ollowing enactment of [article XIII A], the state took full responsibility for both programs." (*Kinlaw*, *supra*, 54 Cal.3d at p. 353 (dis. opn. of Broussard, J.).) As to both programs, the Legislature cited adoption of article XIII A of the California Constitution, and specifically its effect on tax revenues, as the basis for the state's assumption of full funding responsibility. (Stats. 1979, ch. 237, § 10, p. 493; Stats. 1979, ch. 282, § 106, p. 1059.) "Then in 1981 (for handicapped children) and 1982 (for [adult MIP's]), the state sought to shift some of the burden back to the counties." (*Kinlaw*, *supra*, 54 Cal.3d at p. 353 (dis. opn. of Broussard, J.).)

Adopting the Commission's analysis in the Los Angeles action, the state nevertheless argues that *Lucia Mar* "is inapposite." The school program at issue in *Lucia Mar* "had been wholly operated, administered and financed by the state" and "was unquestionably a 'state program.' " " 'In contrast,' " the state argues, " 'the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for' " it under section 17000 and its predecessors.[13] The courts have interpreted section 17000 as "impos[ing] upon counties a duty to ***92** provide hospital and medical services to indigent residents. [Citations.]" (*Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 557 [254 Cal.Rptr. 905].) Thus, the state argues, the source of San Diego's obligation to provide medical care to adult MIP's is section 17000, not the 1982 legislation. Moreover, because the Legislature enacted section 17000 in 1965, and section 6 does not apply to "mandates enacted prior to January 1, 1975," there is no reimbursable mandate. Finally, the state argues that, because section 17001 give counties "complete discretion" in setting eligibility and service standards under section 17000, there is no mandate. A contrary conclusion, the state asserts, "would erroneously expand the definition of what constitutes a 'new program' under" section 6. As we explain, we reject these arguments.

A. *The Source and Existence of San Diego's Obligation*

1. *The Residual Nature of the Counties' Duty Under Section 17000*

The state's argument that San Diego's obligation to provide medical care to adult MIP's predates the 1982 legislation contains numerous errors. First, the state misunderstands San Diego's obligation under section 17000. That section creates "the *residual* fund" to sustain indigents "who cannot qualify ... under any specialized aid programs." (*Mooney*, *supra*, 4 Cal.3d at p. 681, italics added; see also *Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 562; *Boehm v. Superior Court* (1986) 178 Cal.App.3d 494, 499 [223 Cal.Rptr. 716] [general assistance "is a program of last resort"].) By its express terms, the statute requires a county to relieve and support indigent persons *only* "when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (§ 17000.)[14] "Consequently, to the extent that the state or federal governments provide[d] care for [adult MIP's], the [C]ounty's obligation to do so [was] reduced ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 354, fn. 14 (dis. opn. of Broussard, J.).)[15]

As we have explained, the state began providing adult MIP's with medical care under Medi-Cal in 1971. Although it initially required counties to ***93** contribute generally to the costs of Medi-Cal, it did not set forth a specific amount for coverage of MIP's. The state was primarily responsible for the costs of the program, and the counties were simply required to contribute funds to defray the state's costs. Beginning with the 1978-1979 fiscal year, the state paid all costs of the Medi-Cal program, including the cost of medical care for adult MIP's. Thus, when section 6 was adopted in November 1979, to the extent that Medi-Cal provided medical care to adult MIP's, San Diego bore no financial responsibility for these health care costs. [16]

The California Attorney General has expressed a similar understanding of Medi-Cal's effect on the counties' medical care responsibility under section 17000. After the 1971 extension of Medi-Cal coverage to MIP's, Fresno County sought an opinion regarding the scope of its duty to provide medical care under section 17000. It asserted that the 1971 repeal of former section 14108.5, which declared the Legislature's concern with the counties' problems in caring for indigents not eligible for Medi-Cal, evidenced a legislative intent to preempt the field of providing health services. (56 Ops.Cal.Atty.Gen., *supra*, at p. 571.) The Attorney General disagreed, concluding that the 1971 change "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (*Id.* at p. 569.) The Attorney General explained: "The statement of concern acknowledged the obligation of counties to continue to provide medical assistance under section 17000; the removal of the statement of concern was not accompanied by elimination of such duty on the part of the counties, *except as the addition of* [*MIP's*] *to the Medi-Cal program would remove the burden on the counties to provide medical care for such persons*." (*Id.* at p. 571, italics added.) ***94**

Indeed, the Legislature's statement of intent in an uncodified section of the 1982 legislation excluding adult MIP's from Medi-Cal suggests that it also shared our understanding of section 17000. Section 8.3 of the 1982 Medi-Cal revisions expressly declared the Legislature's intent "[i]n eliminating [M]edically [I]ndigent [A]dults from the Medi-Cal program ...." (Stats. 1982, ch. 328, § 8.3, p. 1575; Stats. 1982, ch. 1594, § 86, p. 6357.) It stated in part: "It is further the intent of the Legislature to provide counties with as much flexibility as possible in organizing county health services to serve *the population being transferred*." (Stats. 1982, ch. 328, § 8.3, p. 1576; Stats. 1982, ch. 1594, § 86, p. 6357, italics added.) If, as the state contends, counties had always been responsible under section 17000 for the medical care of adult MIP's, the description of adult MIP's as "the population being transferred" would have been inaccurate. By so describing adult MIP's, the Legislature indicated its understanding that counties did not have this responsibility while adult MIP's were eligible for Medi-Cal. These sources fully support our rejection of the state's argument that the 1982 legislation did not impose a mandate because, under section 17000, counties had always borne the responsibility for providing medical care to adult MIP's.

2. *The State's Assumption of Full Funding Responsibility for Providing Medical Care to Adult MIP's Under Medi-Cal*

To support its argument that it never relieved counties of their obligation under section 17000 to provide medical care to adult MIP's, the state characterizes as "temporary" the Legislature's assumption of full-funding responsibility for adult MIP's. According to the state, "any ongoing responsibility of the county was, at best, only temporarily, partially, alleviated (and never supplanted)." The state asserts that the Court of Appeal thus "erred by focusing on one phase in th[e] shifting pattern of arrangements" for funding indigent health care, "a focus which led to a myopic conclusion that the state alone is forever responsible for funding the health care for" adult MIP's.

A comparison of the 1978 and 1979 statutes that eliminated the counties' share of Medi-Cal costs refutes the state's claim. The Legislature expressly limited the effect of the 1978 legislation to one fiscal year, providing that the state "shall pay" each county's Medi-Cal cost share "for the period from July 1, 1978, to June 30, 1979." (Stats. 1978, ch. 292, § 33, p. 610.) The Legislative Counsel's Digest explained that this section would require the state to pay "[a]ll county costs for Medi-Cal" for "the 1978-79 fiscal year only." (Legis. Counsel's Dig., Sen. Bill No. 154, 4 Stats. 1978 (Reg. Sess.), Summary Dig., p. 71.) The digest further explained that the purpose of the bill containing this section was "the *partial* relief of local government from the *temporary* difficulties brought about by the approval of Proposition 13." ***95** (*Id.* at p. 70, italics added.) Clearly, the Legislature knew how to include words of limitation when it intended the effects of its provisions to be temporary.

By contrast, the 1979 legislation contains no such limiting language. It simply provided: "Section 14150 of the Welfare and Institutions Code is repealed." (Stats. 1979, ch. 282, § 74,

p. 1043.) In setting forth the need to enact the legislation as an urgency statute, the Legislature explained: "The adoption of Article XIII A ... may cause the curtailment or elimination of programs and services which are vital to the state's public health, safety, education, and welfare. In order that such services not be interrupted, it is necessary that this act take effect immediately." (Stats. 1979, ch. 282, § 106, p. 1059.) In describing the effect of this legislation, the Legislative Counsel first explained that, "[u]nder existing law, the counties pay a specified annual share of the cost of" Medi-Cal. (Legis. Counsel's Dig., Assem. Bill No. 8, 4 Stats. 1979 (Reg. Sess.), Summary Dig., p. 79.) Referring to the 1978 legislation, it further explained that "[f]or the 1978-79 fiscal year only, the state pays ... [¶] ... [a]ll county costs for Medi-Cal ...." (*Ibid.*) The 1979 legislation, the digest continued, "provid[ed] for state assumption of all county costs of Medi-Cal." (*Ibid.*) We find nothing in the 1979 legislation or the Legislative Counsel's summary indicating a legislative intent to eliminate the counties' cost share of Medi-Cal only temporarily.

The state budget process for the 1980-1981 fiscal year confirms that the Legislature's assumption of all Medi-Cal costs was not viewed as "temporary." In the summary of his proposed budget, then Governor Brown described Assembly Bill No. 8, 1981-1982 Regular Session, generally as "a long-term local financing measure" (Governor's Budget for 1980-1981 as submitted to Legislature (1979-1980 Reg. Sess.) Summary of Local Government Fiscal Relief, p. A-30) through which "[t]he total cost of [the Medi-Cal] program was *permanently* assumed by the State ...." (*Id.* at p. A-32, italics added.) Similarly, in describing to the Joint Legislative Budget Committee the Medi-Cal funding item in the proposed budget, the Legislative Analyst explained: "Item 287 includes the state cost of 'buying out' the county share of Medi-Cal expenditures. Following passage of Proposition 13, [Senate Bill No.] 154 appropriated $418 million to relieve counties of all fiscal responsibility for Medi-Cal program costs. Subsequently, [Assembly Bill No.] 8 was enacted, *which made permanent state assumption of county Medi-Cal costs*." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1980-1981 Budget Bill, Assem. Bill No. 2020 (1979-1980 Reg. Sess.) at p. 721, italics added.) Thus, the state errs in asserting that the 1979 legislation eliminated the counties' financial support of Medi-Cal "only temporarily."

***96**

3. *State Administration of Medical Care for Adult MIP's Under Medi-Cal*

The state argues that, unlike the school program before us in *Lucia Mar, supra*, 44 Cal.3d 830, which "had been wholly operated, administered and financed by the state," the program for providing medical care to adult MIP's " 'has never been operated or administered by' " the state. According to the state, Medi-Cal was simply a state "reimbursement program" for care that section 17000 required counties to provide. The state is incorrect.

One of the legislative goals of Medi-Cal was "to allow eligible persons to secure basic health care in the same manner employed by the public generally, and without discrimination or segregation based purely on their economic disability." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 104.) "In effect, this meant that poorer people could have access to a private practitioner of their choice, and not be relegated to a county hospital program." (*California Medical Assn. v. Brian* (1973) 30 Cal.App.3d 637, 642 [106 Cal.Rptr. 555].) Medi-Cal "provided for reimbursement to both public and private health care providers for medical services rendered." (*Lackner, supra*, 97 Cal.App.3d at p. 581.) It further directed that, "[i]nsofar as practical," public assistance recipients be afforded "free choice of arrangements under which they shall receive basic health care." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 115.) Finally, since its inception, Medi-Cal has permitted county boards of supervisors to "prescribe rules which authorize the county hospital to integrate its services with those of other hospitals into a system of community service which offers free choice of hospitals to those requiring hospital care. The intent of this section is to eliminate discrimination or segregation based on economic disability so that the county hospital and other hospitals in the community share in providing services to paying patients and to those who qualify for care in public medical care programs." (§ 14000.2.) Thus, "Medi-Cal eligibles were to be able to secure health care in the same manner employed by the general public (i.e., in the private sector or at a county facility)." (1974 Legis. Analyst's Rep., *supra*, at p. 625; see also Preliminary Rep., *supra*, at p. 17.) By allowing eligible persons "a choice of medical facilities for treatment," Medi-Cal placed county health care providers "in competition with private hospitals." (*Hall, supra*, 23 Cal.App.3d at p. 1061.)

Moreover, administration of Medi-Cal over the years has been the responsibility of various state departments and agencies. (§§ 10720-10721, 14061-14062, 14105, 14203;

Belshé, *supra*, 13 Cal.4th at p. 751; *Morris*, *supra*, 67 Cal.2d at p. 741; Summary of Major Events, *supra*, at pp. 2-3, 15.) Thus, "[i]n adopting the Medi-Cal program the state Legislature, for the most part, shifted indigent medical care from being a county responsibility to a State ***97** responsibility under the Medi-Cal program. [Citation.]" (*Bay General Community Hospital v. County of San Diego* (1984) 156 Cal.App.3d 944, 959 [203 Cal.Rptr. 184] (*Bay General*); see also Preliminary Rep., *supra*, at p. 18 [with certain exceptions, Medi-Cal "shifted to the state" the responsibility for administration of the medical care provided to eligible persons].) We therefore reject the state's assertion that, while Medi-Cal covered adult MIP's, county facilities were the sole providers of their medical care, and counties both operated and administered the program that provided that care.

The circumstances we have discussed readily distinguish this case from *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805 [38 Cal.Rptr.2d 304], on which the state relies. There, the court rejected the claim that Penal Code section 987.9, which required counties to provide criminal defendants with certain defense funds, imposed an unfunded state mandate. Los Angeles filed the claim after the state, which had enacted appropriations between 1977 and 1990 "to reimburse counties for their costs under" the statute, made no appropriation for the 1990-1991 fiscal year. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at p. 812.) In rejecting the claim, the court first held that there was no state mandate because Penal Code section 987.9 merely implemented the requirements of federal law. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at pp. 814-816.) Thus, the court stated, "[a]ssuming, arguendo, the provisions of [Penal Code] section 987.9 [constituted] a new program" under section 6, there was no state mandate. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at p. 818.) Here, of course, it is unquestionably the state that has required San Diego to provide medical care to indigent persons.

In dictum, the court also rejected the argument that, under *Lucia Mar*, *supra*, 44 Cal.3d 830, the state's "decision not to reimburse the counties for their programs under [Penal Code] section 987.9" imposed a new program by shifting financial responsibility for the program to counties. (*County of Los Angeles v. Commission on State Mandates*, *supra*, 32 Cal.App.4th at p. 817.) The court explained: "In contrast [to *Lucia Mar*], the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for implementing the procedures under [Penal Code] section 987.9. The state merely reimbursed counties for specific expenses incurred by the counties in their operation of a program for which they had a primary legal and financial responsibility." (*Ibid.*) Here, as we have explained, between 1971 and 1983, the state administered and bore financial responsibility for the medical care that adult MIP's received under Medi-Cal. The Medi-Cal program was not simply a ***98** method of reimbursement for county costs. Thus, the state's reliance on this dictum is misplaced. [17]

In summary, our discussion demonstrates the Legislature excluded adult MIP's from Medi-Cal *knowing* and *intending* that the 1982 legislation would trigger the counties' responsibility to provide medical care as providers of last resort under section 17000. Thus, through the 1982 legislation, the Legislature attempted to do precisely that which the voters enacted section 6 to prevent: "transfer[] to [counties] the fiscal responsibility for providing services which the state believed should be extended to the public." [18] (*County of Los Angeles*, *supra*, 43 Cal.3d at p. 56; see also *City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68 [A "central purpose" of section 6 was "to prevent the state's transfer of the *cost of government* from *itself* to the local level."].) Accordingly, we view the 1982 legislation as having mandated a " 'new program' " on counties by "compelling them to accept financial responsibility in whole or in part for a program," i.e., medical care for adult MIP's, "which was funded entirely by the state before the advent of article XIII B." [19] (*Lucia Mar*, *supra*, 44 Cal.3d at p. 836.)

A contrary conclusion would defeat the purpose of section 6. Under the state's interpretation of that section, because section 17000 was enacted before 1975, the Legislature could eliminate the *entire* Medi-Cal program and shift to the counties under section 17000 complete financial responsibility for medical care that the state has been providing since 1966. However, the taxing and spending limitations imposed by articles XIII A and XIII B would greatly limit the ability of counties to meet their expanded section 17000 obligation. "County taxpayers would be forced to accept new taxes or see the county forced to cut existing programs further ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 351 (dis. opn. of Broussard, J.).) As we have previously explained,

the voters, recognizing that articles XIII A and XIII B left counties "ill equipped" to assume such increased financial responsibilities, adopted section 6 precisely to avoid this result. (***99** *County of Los Angeles*, *supra*, 43 Cal.3d at p. 61.) Thus, it was the voters who decreed that we must, as the state puts it, "focus[] on one phase in th[e] shifting pattern of [financial] arrangements" between the state and the counties. Under section 6, the state simply cannot "compel[] [counties] to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIII B ...."[20] (*Lucia Mar*, *supra*, 44 Cal.3d at p. 836.)

B. *County Discretion to Set Eligibility and Service Standards*

(5a) The state next argues that, because San Diego had statutory discretion to set eligibility and service standards, there was no reimbursable mandate. Citing section 16704, the state asserts that the 1982 legislation required San Diego to spend MISA funds "only on those whom the *county* deems eligible *under § 17000*," "gave the county exclusive authority to determine the level and type of benefits it would provide," and required counties "to include [adult MIP's] in their § 17000 eligibility **only to the extent state funds were available and then only for 3 years.**"[21] (Original emphasis.) According to the state, under section 17001, "[t]he counties have ***100** complete discretion over the determination of eligibility, scope of benefits and how the services will be provided."[22]

The state exaggerates the extent of a county's discretion under section 17001. It is true "case law ... has recognized that section 17001 confers broad discretion upon the counties in performing their statutory duty to provide general assistance benefits to needy residents. [Citations.]" (*Robbins v. Superior Court* (1985) 38 Cal.3d 199, 211 [211 Cal.Rptr. 398, 695 P.2d 695] (*Robbins*).) However, there are "clear-cut limits" to this discretion. (*Ibid.*) (6) The counties may exercise their discretion "only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. [Citation.] When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose. (Gov. Code, § 11374.)" (*Mooney*, *supra*, 4 Cal.3d at p. 679.) Thus, the counties' eligibility and service standards must "carry out" the objectives of section 17000. (*Mooney*, *supra*, 4 Cal.3d at p. 679; see also *Poverty Resistance Center v. Hart* (1989) 213 Cal.App.3d 295, 304-305 [261 Cal.Rptr. 545]; § 11000 ["provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program"].) County standards that fail to carry out section 17000's objectives "are void and no protestations that they are merely an exercise of administrative discretion can sanctify them." (*Morris*, *supra*, 67 Cal.2d at p. 737.) Courts, which have " 'final responsibility for the interpretation of the law,' " must strike them down. (*Id.* at p. 748.) Indeed, despite the counties' statutory discretion, "courts have consistently invalidated ... county welfare regulations that fail to meet statutory requirements. [Citations.]" (*Robbins*, *supra*, 38 Cal.3d at p. 212.)

1. *Eligibility*

(5b) Regarding eligibility, we conclude that counties must provide medical care to all adult MIP's. As we emphasized in *Mooney*, section 17000 requires counties to relieve and support " '*all indigent persons* lawfully resident therein, "when such persons are not supported and relieved by their relatives" or by some other means.' " (*Mooney*, *supra*, 4 Cal.3d at p. 678; see also *Bernhardt v. Board of Supervisors* (1976) 58 Cal.App.3d 806, 811 [130 Cal.Rptr. 189].) Moreover, section 10000 declares that the statutory "purpose" of division 9 of the Welfare and Institutions Code, which includes ***101** section 17000, "is to provide for protection, care, and assistance to the people of the state in need thereof, and to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to *all* of its needy and distressed." (Italics added.) Thus, counties have no discretion to refuse to provide medical care to "indigent persons" within the meaning of section 17000 who do not receive it from other sources.[23] (See *Bell v. Board of Supervisors* (1994) 23 Cal.App.4th 1695, 1706 [28 Cal.Rptr.2d 919] [eligibility standards may not "defeat the purpose of the statutory scheme by depriving qualified recipients of mandated support"]; *Washington v. Board of Supervisors* (1993) 18 Cal.App.4th 981, 985 [22 Cal.Rptr.2d 852] [courts have repeatedly "voided county ordinances which have attempted to redefine eligibility standards set by state statute"].)

Although section 17000 does not define the term "indigent persons," the 1982 legislation made clear that all adult MIP's fall within this category for purposes of defining a county's obligation to provide medical care.[24] As part of its exclusion of adult MIP's, that legislation required counties to participate in the MISA program. (Stats. 1982, ch. 1594, §§ 68, 70, 86, pp. 6343-6347, 6357.) Regarding that program, the 1982 legislation amended section 16704, subdivision (c)(1), to require that a county board of supervisors, in applying for MISA funds, "assure that it will expend such funds only for [specified] health services ... provided to persons certified as eligible for such services pursuant to Section 17000 ...." (Stats. 1982, ch. 1594, § 70, p. 6346.) At the same time, the 1982 legislation amended section 16704, subdivision (c)(3), to provide that "[a]ny person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.) As the state correctly explains, under this provision, "counties had to include [Medically Indigent Adults] in their [section] 17000 eligibility" standards. By requiring counties to make all adult MIP's eligible for services paid for with MISA funds, while at the same time requiring counties to promise to spend such funds *only* on those certified as eligible under section 17000, the Legislature established that all adult MIP's are "indigent persons" for purposes of the counties' duty to provide medical care under section 17000. Otherwise, the counties could not comply with their promise. ***102**

Our conclusion is not affected by language in section 16704, subdivision (c)(3), making it "operative only until June 30, 1985, unless a later enacted statute extends or deletes that date."[25] As we have explained, the subdivision established that adult MIP's are "indigent persons" within the meaning of section 17000 for medical care purposes. As we have also explained, section 17000 requires counties to relieve and support *all* "indigent persons." Thus, even if the state is correct in asserting that section 16704, subdivision (c)(3), is now inoperative and no longer prohibits counties from excluding adult MIP's from eligibility for medical services, section 17000 has that effect.[26]

Additionally, the coverage history of Medi-Cal demonstrates that the Legislature has always viewed all adult MIP's as "indigent persons" within the meaning of section 17000 for medical care purposes. As we have previously explained, when the Legislature created the original Medi-Cal program, which covered only categorically linked persons, it "declar[ed] its concern with the problems which [would] be facing the counties with respect to the medical care of indigent persons who [were] not covered" by Medi-Cal, "whose medical care [had to] be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116 [enacting former § 14108.5].) Moreover, to ensure that the counties' Medi-Cal cost share would not leave counties "with insufficient funds to provide hospital care for those persons not eligible for Medi-Cal," the Legislature also created the county option. (*Hall*, *supra*, 23 Cal.App.3d at p. 1061.) Through the county option, "the state agreed to assume all county health care costs ... in excess of county costs incurred during the 1964-1965 fiscal year, adjusted for population increases." (*Lackner*, *supra*, 97 Cal.App.3d at p. 586.) Thus, the Legislature expressly recognized that the categorically linked persons initially eligible for Medi-Cal did not constitute all "indigent persons" entitled to medical care under section 17000, and required the state to share in the financial responsibility for providing that care.

In adding adult MIP's to Medi-Cal in 1971, the Legislature extended Medi-Cal coverage to noncategorically linked persons "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83.) This ***103** description was consistent with prior judicial decisions that, for purposes of a county's duty to provide "indigent persons" with hospitalization, had defined the term to include a person "who has insufficient means to pay for his maintenance in a private hospital after providing for those who legally claim his support." (*Goodall v. Brite* (1936) 11 Cal.App.2d 540, 550 [54 P.2d 510].)

Moreover, the fate of amendments to section 17000 proposed at the same time suggests that, in the Legislature's view, the category of "indigent persons" entitled to medical care under section 17000 extended even *beyond* those eligible for Medi-Cal as MIP's. The June 17, 1971, version of Assembly Bill No. 949 amended section 17000 by adding the following: "however, the health needs of such persons shall be met under [Medi-Cal]." (Assem. Bill No. 949 (1971 Reg. Sess.) § 53.3, as amended June 17, 1971.) The Assembly deleted this amendment on July 20, 1971. (Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971, p. 37.) Regarding this change, the Assembly Committee on Health explained: "The proposed amendment to Section 17000, ... which would

have removed the counties' responsibilities as health care provider of last resort, is deleted. This change was originally proposed to clarify the guarantee to hold counties harmless from additional Medi-Cal costs. It is deleted since it cannot remove the fact that counties are, by definition, a 'last resort' for any person, with or without the means to pay, who does not qualify for federal or state aid." (Assem. Com. on Health, Analysis of Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971 (July 21, 1971), p. 4.)

The Legislature's failure to amend section 17000 in 1971 figured prominently in the Attorney General's interpretation of that section only two years later. In a 1973 published opinion, the Attorney General stated that the 1971 inclusion of MIP's in Medi-Cal "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (56 Ops.Cal.Atty.Gen., *supra*, at p. 569.) He based this conclusion on the 1971 legislation, relevant legislative history, and "the history of state medical care programs." (*Id.* at p. 570.) The opinion concluded: "The definition of medically indigent in [the chapter establishing Medi-Cal] is applicable only to that chapter and *does not include all those enumerated in section 17000*. If the former medical care program, by providing care only for a specific group, public assistance recipients, did not affect the responsibility of the counties to provide such service under section 17000, we believe the most recent expansion of the medical assistance program does not affect, *absent an express legislative intent to the contrary*, the duty of the counties under section 17000 to continue to provide services to those eligible under section 17000 but not under [Medi-Cal]." (*Ibid.*, italics added.) The Attorney General's opinion, although not binding, is entitled to considerable weight. ***104** (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 829 [25 Cal.Rptr.2d 148, 863 P.2d 218].) Absent controlling authority, it is persuasive because we presume that the Legislature was cognizant of the Attorney General's construction of section 17000 and would have taken corrective action if it disagreed with that construction. (*California Assn. of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, 17 [270 Cal.Rptr. 796, 793 P.2d 2].)

In this case, of course, we need not (and do not) decide whether San Diego's obligation under section 17000 to provide medical care extended beyond adult MIP's. Our discussion establishes, however, that the obligation extended *at least* that far. The Legislature has made it clear that all adult MIP's are "indigent persons" under section 17000 for purposes of San Diego's obligation to provide medical care. Therefore, the state errs in arguing that San Diego had discretion to refuse to provide medical care to this population. [27]

2. *Service Standards*

(7) A number of statutes are relevant to the state's argument that San Diego had discretion in setting service standards. Section 17000 requires in general terms that counties "relieve and support" indigent persons. Section 10000, which sets forth the purpose of the division containing section 17000, declares the "legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life," so "as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society." (§ 10000.) "Section 17000, as authoritatively interpreted, mandates that medical care be provided to indigents and section 10000 requires that such care be provided promptly and humanely. The duty is mandated by statute. There is no discretion concerning whether to provide such care ...." (*Tailfeather v. Board of Supervisors* (1996) 48 Cal.App.4th 1223, 1245 [56 Cal.Rptr.2d 255] (*Tailfeather*).)

Courts construing section 17000 have held that it "imposes a mandatory duty upon all counties to provide 'medically necessary care,' not just ***105** emergency care. [Citation.]" (*County of Alameda v. State Bd. of Control* (1993) 14 Cal.App.4th 1096, 1108 [18 Cal.Rptr.2d 487]; see also *Gardner v. County of Los Angeles* (1995) 34 Cal.App.4th 200, 216 [40 Cal.Rptr.2d 271]; § 16704.1 [prohibiting a county from requiring payment of a fee or charge "before [it] renders medically necessary services to ... persons entitled to services under Section 17000"].) It further "ha[s] been interpreted ... to impose a minimum standard of care below which the provision of medical services may not fall." (*Tailfeather*, *supra*, 48 Cal.App.4th at p. 1239.) In *Tailfeather*, the court stated that "section 17000 requires provision of medical services to the poor at a level which does not lead to unnecessary suffering or endanger life and health ...." (*Id.* at p. 1240.) In reaching this conclusion, it cited *Cooke*, *supra*, 213 Cal.App.3d at page 404, which held that section 17000 requires counties to provide "dental care sufficient to remedy substantial pain and infection." (See also § 14059.5 [defining "[a] service [as] 'medically necessary' ... when it is reasonable and necessary to protect life, to prevent

significant illness or significant disability, or to alleviate severe pain"].)

During the years for which San Diego sought reimbursement, Health and Safety Code section 1442.5, former subdivision (c) (former subdivision (c)), also spoke to the level of services that counties had to provide under Welfare and Institutions Code section 17000.[28] As enacted in September 1974, former subdivision (c) provided that, whether a county's duty to provide care to all indigent people "is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county." (Stats. 1974, ch. 810, § 3, p. 1765.) The express "purpose and intent" of the act that contained former subdivision (c) was "to insure that the duty of counties to provide health care to indigents [was] properly and continuously fulfilled." (Stats. 1974, ch. 810, § 1, p. 1764.) Thus, until its repeal in September 1992,[29] former subdivision (c) "[r]equire[d] that the availability and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county." (Legis. Counsel's Dig., Sen. Bill No. 2369, 2 Stats. 1974 (Reg. Sess.) Summary Dig., p. 130; see also *Gardner v. County of Los Angeles*, *supra*, 34 Cal.App.4th at p. 216; ***106** *Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 564 [former subdivision (c) required that care provided "be *comparable* to that enjoyed by the nonindigent"].)[30] "For the 1990-91 fiscal year," the Legislature qualified this obligation by providing: "nothing in [former] subdivision (c) ... shall require any county to exceed the standard of care provided by the state Medi-Cal program. Notwithstanding any other provision of law, counties shall not be required to increase eligibility or expand the scope of services in the 1990-91 fiscal year for their programs." (Stats. 1990, ch. 457, § 23, p. 2013.)

Although we have identified statutes relevant to service standards, we need not here define the precise contours of San Diego's statutory health care obligation. The state argues generally that San Diego had discretion regarding the services it provided. However, the state fails to identify either the specific services that San Diego provided under its CMS program or which of those services, if any, were not required under the governing statutes. Nor does the state argue that San Diego could have eliminated all services and complied with statutory requirements. Accordingly, we reject the state's argument that, because San Diego had some discretion in providing services, the 1982 legislation did not impose a reimbursable mandate.[31]

VI. Minimum Required Expenditure

(8) The Court of Appeal held that, under the governing statutes, the Commission must initially determine the precise amount of any reimbursement due San Diego. It therefore reversed the damages portion of the trial court's judgment and remanded the matter to the Commission for this determination. Nevertheless, the Court of Appeal affirmed the trial court's finding that the Legislature required San Diego to spend at least $41 million on its CMS program for fiscal years 1989-1990 and 1990-1991. In affirming this finding, the Court of Appeal relied primarily on Welfare and Institutions Code section 16990, subdivision (a), as it read at all relevant times. The state contends this provision did not mandate that San Diego spend any minimum amount on the CMS program. It further asserts that the Court of Appeal's "ruling in effect sets a damages baseline, in contradiction to [its] ostensible reversal of the damage award." ***107**

Former section 16990, subdivision (a), set forth the financial maintenance-of-effort requirement for counties that received funding under the California Healthcare for the Indigent Program (CHIP). The Legislature enacted CHIP in 1989 to implement Proposition 99, the Tobacco Tax and Health Protection Act of 1988 (codified at Rev. & Tax. Code, § 30121 et seq.). Proposition 99, which the voters approved on November 8, 1988, increased the tax on tobacco products and allocated the resulting revenue in part to medical and hospital care for certain persons who could not afford those services. (*Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 248, 254 [279 Cal.Rptr. 325, 806 P.2d 1360].) During the 1989-1990 and 1990-1991 fiscal years, former section 16990, subdivision (a), required counties receiving CHIP funds, "at a minimum," to "maintain a level of financial support of county funds for health services at least equal to its county match and any overmatch of county funds in the 1988-89 fiscal year," adjusted annually as provided. (Stats. 1989, ch. 1331, § 9, p. 5427.) Applying this provision, the Court of Appeal affirmed the trial court's finding that the state had required San Diego to spend in fiscal years 1989-1990 and 1990-1991 at least $41 million on the CMS program.

We agree with the state that this finding is erroneous. Unlike participation in MISA, which was mandatory, participation in CHIP was voluntary. In establishing CHIP, the Legislature appropriated funds "for allocation to counties *participating* in" the program. (Stats. 1989, ch. 1331, § 10, p. 5436, italics added.) Section 16980, subdivision (a), directed the State Department of Health Services to make CHIP payments "upon application of the county assuring that it will comply with" applicable provisions. Among the governing provisions were former sections 16990, subdivision (a), and 16995, subdivision (a), which provided: "To be eligible for receipt of funds under this chapter, a county may not impose more stringent eligibility standards for the receipt of benefits under Section 17000 or reduce the scope of benefits compared to those which were in effect on November 8, 1988." (Stats. 1989, ch. 1331, § 9, p. 5431.)

However, San Diego has cited no provision, and we have found none, that *required* eligible counties to participate in the program or apply for CHIP funds. Through Revenue and Taxation Code section 30125, which was part of Proposition 99, the electorate directed that funds raised through Proposition 99 "shall be used to supplement existing levels of service and not to fund existing levels of service." (See also Stats. 1989, ch. 1331, §§ 1, 19, pp. 5382, 5438.) Counties not wanting to supplement their existing levels of service, and who therefore did not want CHIP funds, were not bound by the program's requirements. Those counties, including San Diego, that chose to ***108** seek CHIP funds did so voluntarily.[32] Thus, the Court of Appeal erred in concluding that former section 16990, subdivision (a), mandated a minimum funding requirement for San Diego's CMS program.

Nor did former section 16991, subdivision (a)(5), which the trial court and Court of Appeal also cited, establish a minimum financial obligation for San Diego's CMS program. Former section 16991 generally "establish[ed] a procedure for the allocation of funds to each county receiving funds from the [MISA] ... for the provision of services to persons meeting certain Medi-Cal eligibility requirements, based on the percentage of newly legalized individuals under the federal Immigration Reform and Control Act (IRCA)." (Legis. Counsel's Dig., Assem. Bill No. 75, 4 Stats. 1989 (Reg. Sess.) Summary Dig., p. 548.) Former section 16991, subdivision (a)(5) required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its combined allocation from various sources was less than the funding it received under section 16703 for fiscal year 1988-1989.[33] Nothing about this state reimbursement requirement imposed on San Diego a minimum funding requirement for its CMS program.

Thus, we must reverse the judgment insofar as it finds that former sections 16990, subdivision (a), and 16991, subdivision (a)(5), established a $41 million spending floor for San Diego's CMS program. Instead, the various statutes that we have previously discussed (e.g., §§ 10000, 17000, and Health & Saf. Code, § 1442.5, former subd. (c)), the cases construing those statutes, and any other relevant authorities must guide the Commission's determination of the level of services that San Diego had to provide and any reimbursement to which it is entitled. ***109**

VII. Remaining Issues

(9) The state raises a number of additional issues. It first complains that a mandamus proceeding under Code of Civil Procedure section 1085 was an improper vehicle for challenging the Commission's position. It asserts that, under Government Code section 17559, review by administrative mandamus under Code of Civil Procedure section 1094.5 is the exclusive method for challenging a Commission decision denying a mandate claim. The Court of Appeal rejected this argument, reasoning that the trial court had jurisdiction under Code of Civil Procedure section 1085 because, under section 6, the state has a ministerial duty of reimbursement when it imposes a mandate.

Like the Court of Appeal, but for different reasons, we reject the state's argument. "[M]andamus pursuant to [Code of Civil Procedure] section 1094.5, commonly denominated 'administrative' mandamus, is mandamus still. It is not possessed of 'a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations.' [Citations.] The full panoply of rules applicable to 'ordinary' mandamus applies to 'administrative' mandamus proceedings, except where modified by statute. [Citations.]" (*Woods v. Superior Court* (1981) 28 Cal.3d 668, 673-674 [170 Cal.Rptr. 484, 620 P.2d 1032].) Where the entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding brought under Code of Civil Procedure section 1085 as one brought under Code of Civil Procedure section 1094.5 and should deny a demurrer asserting that the wrong mandamus statute has been invoked. (*Woods, supra*, 28 Cal.3d at

pp. 673-674; *Anton v. San Antonio Community Hosp.* (1977) 19 Cal.3d 802, 813-814 [140 Cal.Rptr. 442, 567 P.2d 1162].) Thus, even if San Diego identified the wrong mandamus statute, the error did not affect the trial court's ability to grant mandamus relief.

"In any event, distinctions between traditional and administrative mandate have little impact on this appeal ...." (*McIntosh v. Aubry* (1993) 14 Cal.App.4th 1576, 1584 [18 Cal.Rptr.2d 680].) The determination whether the statutes here at issue established a mandate under section 6 is a question of law. (*County of Fresno v. Lehman*, *supra*, 229 Cal.App.3d at p. 347.) In reaching our conclusion, we have relied on no facts that are in dispute. Where, as here, a "purely legal question" is at issue, courts "exercise independent judgment ... , no matter whether the issue arises by traditional or administrative mandate. [Citations.]" (*McIntosh*, *supra*, 14 Cal.App.4th at p. 1584.) As the state concedes, even under Code of Civil Procedure section 1094.5, a judgment must "be reversed if based on erroneous conclusions of law." Thus, any differences between the two mandamus statutes have had no impact on our analysis. ***110**

The state next contends that the trial court prejudicially erred in denying the "peremptory disqualification" motion that the Director of the Department of Finance filed under Code of Civil Procedure section 170.6. We will not review this ruling, however, because it is reviewable only by writ of mandate under Code of Civil Procedure section 170.3, subdivision (d). (*People v. Webb* (1993) 6 Cal.4th 494, 522-523 [24 Cal.Rptr.2d 779, 862 P.2d 779]; *People v. Hull* (1991) 1 Cal.4th 266 [2 Cal.Rptr.2d 526, 820 P.2d 1036].)

Nor can we address the state's argument that the trial court erred in granting a preliminary injunction. The May 1991 order granting the preliminary injunction was "immediately and separately appealable" under Code of Civil Procedure section 904.1, subdivision (a)(6). (*Art Movers, Inc. v. Ni West, Inc.* (1992) 3 Cal.App.4th 640, 645 [4 Cal.Rptr.2d 689].) Thus, the state's attempt to challenge the order in an appeal filed after entry of final judgment in December 1992 was untimely.[34] (See *Chico Feminist Women's Health Center v. Scully* (1989) 208 Cal.App.3d 230, 251 [256 Cal.Rptr. 194].) Moreover, the state's attempt to appeal the order granting the preliminary injunction is moot because of (1) the trial court's July 1 order granting a peremptory writ of mandate, which expressly "supersede[d] and replace[d]" the preliminary injunction order and (2) entry of final judgment. (*Sheward v. Citizens' Water Co.* (1891) 90 Cal. 635, 638-639 [27 P. 439]; *People v. Morse* (1993) 21 Cal.App.4th 259, 264-265 [25 Cal.Rptr.2d 816]; *Art Movers, Inc.*, *supra*, 3 Cal.App.4th at p. 647.)

Finally, the state requests that we reverse the trial court's reservation of jurisdiction regarding an award of attorney fees. This request is premature. In the judgment, the trial court "retain[ed] jurisdiction to determine any right to and amount of attorneys' fees ...." This provision does not declare that San Diego in fact has a right to an award of attorney fees. Nor has San Diego asserted such a right. As San Diego states, at this point, "[t]here is nothing for this Court to review." We will not give an advisory ruling on this issue.

VIII. Disposition

The judgment of the Court of Appeal is affirmed insofar as it holds that the exclusion of adult MIP's from Medi-Cal imposed a mandate on San Diego within the meaning of section 6. The judgment is reversed insofar as it holds that the state required San Diego to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. The matter is ***111** remanded to the Commission to determine whether, and by what amount, the statutory standards of care (e.g., Health & Saf. Code, § 1442.5, former subd. (c); Welf. & Inst. Code, §§ 10000, 17000) forced San Diego to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which San Diego is entitled.

C. J., Mosk, J., Baxter, J., Anderson, J.,* and Aldrich, J.,†]]]] concurred.

KENNARD, J.

I dissent.

As part of an initiative measure placing spending limits on state and local government, the voters in 1979 added article XIII B to the California Constitution. Section 6 of this article provides that when the state "mandates a new

program or higher level of service on any local government," the state must reimburse the local government for the cost of such program or service. Under subdivision (c) of this constitutional provision, however, the state "may, but need not," provide such reimbursement *if the state mandate was enacted before January 1, 1975*. (Cal. Const., art. XIII B, § 6, subd. (c).) Subdivision (c) is the critical provision here.

Because the counties have for many decades been under a state mandate to provide for the poor, a mandate that existed before the voters added article XIII B to the state Constitution, the express language of subdivision (c) of section 6 of article XIII B exempts the state from any *legal obligation* to reimburse the counties for the cost of medical care to the needy. The fact that for a certain period after 1975 the state directly paid under the state Medi-Cal program for these costs did not lead to the creation of a new mandate once the state stopped doing so. To hold to the contrary, as the majority does, is to render subdivision (c) a nullity.

The issue here is not whether the poor are entitled to medical care. They are. The issue is whether the state or the counties must pay for this care. The majority places this obligation on the state. The counties' win, however, may be a pyrrhic victory. For, in anticipation of today's decision, the Legislature has enacted legislation that will drastically reduce the counties' share of other state revenue, as discussed in part III below.

I

Beginning in 1855, California imposed a legal obligation on the counties to take care of their poor. (*Mooney* v. *Pickett* (1971) 4 Cal.3d 669, 677-678 ***112** [94 Cal.Rptr. 279, 483 P.2d 1231].) Since 1965, this obligation has been codified in Welfare and Institutions Code section 17000. (Stats. 1965, ch. 1784, § 5, p. 4090.) That statute states in full: "Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (Welf. & Inst. Code, § 17000.) Included in this is a duty to provide medical care to indigents. (*Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 557 [254 Cal.Rptr. 905].)

A brief overview of the efforts by federal, state, and local governments to furnish medical services to the poor may be helpful.

Before March 1, 1966, the date on which California began its Medi-Cal program, medical services for the poor "were provided in different ways and were funded by the state, county, and federal governments in varying amounts." (Assem. Com. on Public Health, Preliminary Rep. on Medi-Cal (Feb. 29, 1968) p. 3.) The Medi-Cal program, which California adopted to implement the federal Medicaid program (42 U.S.C. § 1396 et seq.; see *Morris v. Williams* (1967) 67 Cal.2d 733, 738 [63 Cal.Rptr. 689, 433 P.2d 697]), at first limited eligibility to those persons "linked" to a federal categorical aid program by being over age 65, blind, disabled, or a member of a family with dependent children. (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.), pp. 548, 550.) Persons not linked to federal programs were ineligible for Medi-Cal; they could obtain medical care from the counties. (*County of Santa Clara* v. *Hall* (1972) 23 Cal.App.3d 1059, 1061 [100 Cal.Rptr. 629].)

In 1971, the Legislature revised Medi-Cal by extending coverage to certain so-called "noncategorically linked" persons, or "medically indigent persons." (Stats. 1971, ch. 577, §§ 12, 13, 22.5, 23, pp. 1110-1111, 1115.) The revisions included a formula for determining each county's share of Medi-Cal costs for the 1972-1973 fiscal year, with increases in later years based on the assessed value of property. (*Id.* at §§ 41, 42, pp. 1131-1133.)

In 1978, California voters added to the state Constitution article XIII A (Proposition 13), which severely limited property taxes. In that same year, to help the counties deal with the drastic drop in local tax revenue, the Legislature assumed the counties' share of Medi-Cal costs. (Stats. 1978, ch. 292, § 33, p. 610.) In 1979, the Legislature relieved the counties of their obligation to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 106, p. 1059.) ***113** Also in 1979, the voters added to the state Constitution article XIII B, which placed spending limits on state and local governments and added the mandate/reimbursement provisions at issue here.

In 1982, the Legislature removed from Medi-Cal eligibility the category of "medically indigent persons" that had been added in 1971. The Legislature also transferred funds for indigent health care services from the state to the counties

through the Medically Indigent Services Account. (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357.) Medically Indigent Services Account funds were then combined with county health service funds to provide health care to persons not eligible for Medi-Cal (Stats. 1982, ch. 1594, § 86, p. 6357), and counties were to provide health services to persons in this category "to the extent that state funds are provided" (*id.*, § 70, p. 6346).

From 1983 through June 1989, the state fully funded San Diego County's program for furnishing medical care to the poor. Thereafter, in fiscal years 1989-1990 and 1990-1991, the state partially funded San Diego County's program. In early 1991, however, the state refused to provide San Diego County full funding for the 1990-1991 fiscal year, prompting a threat by the county to terminate its indigent medical care program. This in turn led the Legal Aid Society of San Diego to file an action against the County of San Diego, asserting that Welfare and Institutions Code section 17000 imposed a legal obligation on the county to provide medical care to the poor. The county cross-complained against the state. The county argued that the state's 1982 removal of the category of "medically indigent persons" from Medi-Cal eligibility mandated a "new program or higher level of service" within the meaning of section 6 of article XIII B of the California Constitution, because it transferred the cost of caring for these persons to the county. Accordingly, the county contended, section 6 required the state to reimburse the county for its cost of providing such care, and prohibited the state from terminating reimbursement as it did in 1991. The county eventually reached a settlement with the Legal Aid Society of San Diego, leading to a dismissal of the latter's complaint.

While the County of San Diego's case against the state was pending, litigation was proceeding in a similar action against the state by the County of Los Angeles and the County of San Bernardino. In that action, the Superior Court for the County of Los Angeles entered a judgment in favor of Los Angeles and San Bernardino Counties. The state sought review in the Second District Court of Appeal in Los Angeles. In December 1992, the parties to the Los Angeles case entered into a settlement agreement providing for dismissal of the appeal and vacating of the superior court judgment. ***114** The Court of Appeal thereafter ordered that the superior court judgment be vacated and that the appeal be dismissed.

The County of San Diego's action against the state, however, was not settled. It proceeded on the county's claim against the state for reimbursement of the county's expenditures for medical care to the indigent. [1] The majority holds that the county is entitled to such reimbursement. I disagree.

II

Article XIII B, section 6 of the California Constitution provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, *except that the Legislature may, but need not, provide such subvention of funds for the following mandates:* [¶] ... [¶] *(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.*" (Italics added.) [2]

Of importance here is Welfare and Institutions Code section 17000 (hereafter sometimes section 17000). It imposes a legal obligation on the counties to provide, among other things, medical services to the poor. (*Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 557; *County of San Diego v. Viloria* (1969) 276 Cal.App.2d 350, 352 [80 Cal.Rptr. 869].) Section 17000 was enacted long before and has existed continuously since January 1, 1975, the date set forth in subdivision (c) of section 6 of article XIII B of the California Constitution. Thus, section 17000 falls within subdivision (c)'s language of "[l]egislative mandates enacted prior to January 1, 1975," rendering it exempt from the reimbursement provision of section 6.

Contrary to the majority's conclusion, the Legislature's 1982 legislation removing the category of "medically indigent persons" from Medi-Cal did not meet California Constitution, article XIII B, section 6 's requirement of imposing on local government "a new program or higher level of service," and therefore did not entitle the counties to reimbursement from the state under section 6 of article XIII B. The counties' legal obligation to provide medical care arises from section 17000, not from the subsequently enacted ***115** 1982 legislation. The majority itself concedes that the 1982 legislation merely "trigger[ed] the counties' responsibility to provide medical care as providers of last resort under section 17000." (Maj. opn., *ante,* at p. 98.) Although certain actions by the state and the federal government during the 1970's and 1980's may have alleviated the counties' financial burden of providing medical care for the indigent, those actions did not supplant or remove the counties' existing legal obligation under section

17000 to furnish such care. (*Cooke* v. *Superior Court* (1989) 213 Cal.App.3d 401, 411 [261 Cal.Rptr. 706]; *Madera Community Hospital* v. *County of Madera* (1984) 155 Cal.App.3d 136, 151 [201 Cal.Rptr. 768].)

The state's reimbursement obligation under section 6 of article XIII B of the California Constitution arises only if, after January 1, 1975, the date mentioned in subdivision (c) of section 6, the state imposes on the counties "a new program or higher level of service." That did not occur here. As I pointed out above, the counties' legal obligation to provide for the poor arises from section 17000, enacted long before the January 1, 1975, cutoff date set forth in subdivision (c) of section 6. That statutory obligation remained in effect when during a certain period after 1975 the state assumed the financial burden of providing medical care to the poor, in an effort to help the counties deal with a drastic drop in local revenue as a result of the voters' passage of Proposition 13, which severely limited property taxes. Because the counties' statutory obligation to provide health care to the poor was created before 1975 and has existed unchanged since that time, the state's 1982 termination of Medi-Cal eligibility for "medically indigent persons" did not create a "new program or higher level of service" within the meaning of section 6 of article XIII B, and therefore did not obligate the state to reimburse the counties for their expenditures in health care for the poor.

III

In imposing on the state a legal obligation to reimburse the counties for their cost of furnishing medical services to the poor, the majority's holding appears to bail out financially strapped counties. Not so.

Today's decision will immediately result in a reduction of state funds available to the counties. Here is why. In 1991, the Legislature added section 11001.5 to the Revenue and Taxation Code, providing that 24.33 percent of the moneys collected by the Department of Motor Vehicles as motor vehicle license fees must be deposited in the State Treasury to the credit of the Local Revenue Fund. In anticipation of today's decision, the Legislature stated in subdivision (d) of this statute: "This section shall cease to be operative on ***116** the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal [that]: [¶] ... [¶] (2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, § 11001.5, subd. (d); see also *id*., § 10753.8, subd. (b).)

The loss of such revenue, which the Attorney General estimates at "hundreds of millions of dollars," may put the counties in a serious financial bind. Indeed, realization of the scope of this revenue loss appears to explain why the County of Los Angeles, after a superior court victory in its action seeking state reimbursement for the cost of furnishing medical care to "medically indigent persons," entered into a settlement with the state under which the superior court judgment was effectively obliterated by a stipulated reversal. (See *Neary v. Regents of University of California* (1992) 3 Cal.4th 273 [10 Cal.Rptr.2d 859, 834 P.2d 119].) In a letter addressed to the Second District Court of Appeal, sent while the County of Los Angeles was engaged in settlement negotiations with the state, the county's attorney referred to the legislation mentioned above in these terms: "This legislation was quite clearly written with this case in mind. Consequently, to pursue this matter, *the County of Los Angeles risks losing a funding source it must have to maintain its health services programs at current levels.* The additional funding that might flow to the County from a final judgment in its favor in this matter, is several years away *and is most likely of a lesser amount than this County's share of the vehicle license fees*." (Italics added.) Thus, the County of Los Angeles had apparently determined that a legal victory entitling it to reimbursement from the state for the cost of providing medical care to the category of "medically indigent persons" would not in fact serve its economic interests.

I have an additional concern. According to the majority, whenever there is a change in a state program that has the effect of increasing a county's financial burden under section 17000 there must be reimbursement by the state. This means that so long as section 17000 continues to exist, an increase in state funding to a particular county for the care of the poor, once undertaken, may be irreversible, thus locking the state into perpetual financial assistance to that county for health care to the needy. This would, understandably, be a major disincentive for the Legislature to ever increase the state's funding of a county's medical care for the poor.

The rigidity imposed by today's holding will have unfortunate consequences should the state's limited financial resources

prove insufficient to ***117** reimburse the counties under section 6 of article XIII B of the California Constitution for the "new program or higher level of service" of providing medical care to the poor under section 17000. In that event, the state may be required to modify this "new program or higher level of service" in order to reconcile the state's reimbursement obligation with its finite resources and its other financial commitments. Such modifications are likely to take the form of limitations on eligibility for medical care or on the amount or kinds of medical care that the counties must provide to the poor under section 17000. A more flexible system—one that actively encouraged shared state and county responsibility for indigent medical care, using a variety of innovative funding mechanisms—would be less likely to result in a curtailment of medical services to the poor.

And if the Legislature is unable or unwilling to appropriate funds to comply with the majority's reimbursement order, the law allows the county to file "in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c); see maj. opn., *ante,* at p. 82.) Such a declaration would do nothing to alleviate the plight of the poor.

Conclusion

The dispute in this case ultimately arises from a collision between the taxing limitations on the counties imposed by article XIII A of the state Constitution and the preexisting, open-ended mandate imposed on them under Welfare and Institutions Code section 17000 to provide medical care for the poor. As I have explained, the Legislature's assumption thereafter of some of the resulting financial burden to the counties did not repeal section 17000' s mandate, nor did the Legislature's later termination of its financial support create a new mandate. In holding to the contrary, the majority imposes on the Legislature an obligation that the Legislature does not have under the law.

I recognize that my resolution of this issue—that under existing law the state has *no legal obligation* to reimburse the counties for health expenditures for the poor—would leave the counties in the same difficult position in which they find themselves now: providing funding for indigent medical care while maintaining other essential public services in a time of fiscal austerity. But complex policy questions such as the structuring and funding of indigent medical care are best left to the counties, the Legislature, and ultimately the electorate, rather than to the courts. It is the counties that must figure out how to allocate the limited budgets imposed on them by the electorate's adoption of articles XIII A and XIII B of the California Constitution among indigent medical care programs and a host of other pressing ***118** and essential needs. It is the Legislature that must decide whether to furnish financial assistance to the counties so they can meet their section 17000 obligations to provide for the poor, and whether to continue to impose the obligations of section 17000 on the counties. It is the electorate that must decide whether, given the ever-increasing costs of meeting the needs of indigents under section 17000, counties should be afforded some relief from the taxing and spending limits of articles XIII A and XIII B, both enacted by voters' initiative. These are hard choices, but for the reasons just given they are better made by the representative branches of government and the electorate than by the courts. ***119**

Footnotes

* Retired judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

† Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

1 Except as otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

2 Congress later repealed the requirement that states work towards expanding eligibility. (See Cal. Health and Welfare Agency, The Medi-Cal Program: A Brief Summary of Major Events (Mar. 1990) p. 1 (Summary of Major Events).)

3 Former section 14150.1 provided in relevant part: "[A] county may elect to pay as its share [of Medi-Cal costs] one hundred percent ... of the county cost of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county .... If the county so elects, the county costs of health care in any fiscal year shall not exceed the total county costs of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county ...." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 121.)

4 Former section 14150 provided the standard method for determining the counties' share of Medi-Cal costs. Under it, "a county was required to pay the state a specific sum, in return for which the state would pay for the medical care of all [categorically linked] individuals .... Financial responsibility for nonlinked individuals ... remained with the counties." (*Lackner*, *supra*, 97 Cal.App.3d at p. 581.)

5 In this opinion, the terms "adult MIP's" and "Medically Indigent Adults" refer only to those persons who were excluded from the Medi-Cal program by the 1982 legislation.

6 San Diego lodged with the trial court a copy of the Commission's decision in the Los Angeles action.

7 In setting forth the facts relating to the Los Angeles action, we rely in part on the appellate record from that action, of which we take judicial notice. (Evid. Code, §§ 452, subd. (d), 459.)

8 The settlement resulted from 1991 legislation that changed the system of health care funding as of June 30, 1991. (See § 17600 et seq.; Stats. 1991, chs. 87, 89, pp. 231-235, 243-341.) That legislation provided counties with new revenue sources, including a portion of state vehicle license fees, to fund health care programs. However, the legislation declared that the statutes providing counties with vehicle license fees would "cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal" that "[t]he state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, §§ 10753.8, subd. (b)(2), 11001.5, subd. (d)(2); see also Stats. 1991, ch. 89, § 210, p. 340.) Los Angeles and San Bernardino Counties settled their action to avoid triggering these provisions. Unlike the dissent, we do not believe that consideration of these recently enacted provisions is appropriate in analyzing the 1982 legislation. Nor do we assume, as the dissent does, that our decision necessarily triggers these provisions. That issue is not before us.

9 The cross-complaint named the following state officers: (1) Kenneth W. Kizer, Director of the Department of Health Services; (2) Kim Belshé, Acting Secretary of the Health and Welfare Agency; (3) Gray Davis, the State Controller; (4) Kathleen Brown, the State Treasurer; and (5) Thomas Hayes, the Director of the Department of Finance. Where the context suggests, subsequent references in this opinion to "the state" include these officers.

10 The judgment dismissed all of San Diego's other claims.

11 In *Garamendi*, *supra*, 20 Cal.App.4th at pages 771-775, the court discussed procedural requirements for raising a claim that another court has already exercised its concurrent jurisdiction. Given our conclusion that the trial court's error here was not jurisdictional, we express no opinion about this discussion in *Garamendi* or the sufficiency of the state's efforts to raise the issue in this case.

12 Notably, in discussing the options still available to San Diego, the state asserts that San Diego "might have been able to go to superior court and file a [mandamus] petition based on the record of the prior test claim."

13 "County General Assistance in California dates from 1855, and for many years afforded the only form of relief to indigents." (*Mooney* v . *Pickett* (1971) 4 Cal.3d 669, 677 [94 Cal.Rptr. 279, 483 P.2d 1231] (*Mooney*).) Section 17000 is substantively identical to former section 2500, which was enacted in 1937. (Stats. 1937, chs. 369, 464, pp. 1097, 1406.)

14 See also *County of Los Angeles v. Frisbie* (1942) 19 Cal.2d 634, 639 [122 P.2d 526] (construing former section 2500); *Jennings v. Jones* (1985) 165 Cal.App.3d 1083, 1091 [212 Cal.Rptr. 134] (counties must support all indigent persons "having no other means of support"); *Union of American Physicians & Dentists v. County of Santa Clara* (1983) 149 Cal.App.3d 45, 51, fn. 10 [196 Cal.Rptr. 602]; *Rogers v. Detrich* (1976) 58 Cal.App.3d 90, 95 [128 Cal.Rptr. 261] (counties have duty of support "where such support is not otherwise furnished").

15 In asserting that Medi-Cal coverage did not supplant San Diego's obligation under section 17000, the dissent incorrectly relies on *Madera Community Hospital v. County of Madera* (1984) 155 Cal.App.3d 136 [201 Cal.Rptr. 768] (*Madera*) and *Cooke*, *supra*, 213 Cal.App.3d 401. (Dis. opn., *post*, at p. 115.) In *Madera*, the court voided a county ordinance that extended county benefits under section 17000 only to persons " 'meeting all eligibility standards for the Medi-Cal program.' " (*Madera*, *supra*, 155 Cal.App.3d at p. 150.) The court explained: "Because all funding for the Medi-Cal program comes from either the federal or the state government ..., [c]ounty has denied any financial obligation whatsoever from county funds for the medical care of its indigent and poor residents." (*Ibid.*) Thus, properly understood, *Madera* held only that Medi-Cal does not relieve counties of their obligation to provide medical care to persons who are "indigent" within the meaning of section 17000 but who are ineligible for Medi-Cal. The limit of *Madera*'s holding is apparent from the court's reliance on a 1979 opinion of the Attorney General discussing the scope of a county's authority under section 17000. (*Madera*, *supra*, 155 Cal.App.3d at pp. 151-152.) The Attorney General explained that "[t]he county obligation [under section 17000] to provide general relief extends to those indigents who do not qualify under specialized aid programs, ... including Medi-Cal." (62 Ops.Cal.Atty.Gen. 70, 71, fn. 1 (1979).) Moreover, the *Madera* court expressly recognized that state and federal programs "alleviate, to a greater or lesser extent, [a] [c]ounty's burden." (*Madera*, *supra*, 155 Cal.App.3d at p. 151.) In *Cooke*, the court simply made a passing reference to *Madera* in dictum describing the coverage history of Medi-Cal. (*Cooke*, *supra*, 213 Cal.App.3d at p. 411.) It neither analyzed the issue before us nor explained the meaning of the dictum that the dissent cites.

16 As we have previously explained, even before 1971 the state, through the county option, assumed much of the financial responsibility for providing medical care to adult MIP's.

17 Because *County of Los Angeles v. Commission on State Mandates*, *supra*, 32 Cal.App.4th 805, is distinguishable, we need not (and do not) express an opinion regarding the court's analysis in that decision or its conclusions.

18 The state properly does not contend that the provision of medical care to adult MIP's is not a "program" within the meaning of section 6. (See *County of Los Angeles*, *supra*, 43 Cal.3d at p. 56 [section 6 applies to "programs that carry out the governmental function of providing services to the public"].)

19 Alternatively, the 1982 legislation can be viewed as having mandated an increase in the services that counties were providing through existing section 17000 programs, by adding adult MIP's to the indigent population that counties already had to serve under that section. (See *County of Los Angeles*, *supra*, 43 Cal.3d at p. 56 ["subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs' "].)

20 In reaching a contrary conclusion, the dissent ignores the electorate's purpose in adopting section 6. The dissent also mischaracterizes our decision. We do not hold that "whenever there is a change in a state program that has the effect of increasing a county's financial burden under section 17000 there must be reimbursement by the state." (Dis. opn., *post*, at p. 116.) Rather, we hold that section 6 prohibits the state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of section 6. Whether the state may discontinue assistance that it initiated after section 6's adoption is a question that is not before us.

21 As amended in 1982, section 16704, subdivision (c)(1), provided in relevant part: "The [county board of supervisors] shall assure that it will expend [MISA] funds only for the health services specified in Sections 14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000 and shall assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702." (Stats. 1982, ch. 1594, § 70, p. 6346.) Section 16704, subdivision (c)(3), provided in relevant part: "Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service .... The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandates [*sic*] that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1983, unless a later enacted statute extends or deletes that date." (Stats. 1982, ch. 1594, § 70, pp. 6346-6347.)

22 Section 17001 provides: "The board of supervisors of each county, or the agency authorized by county charter, shall adopt standards of aid and care for the indigent and dependent poor of the county or city and county."

23 We disapprove *Bay General*, *supra*, 156 Cal.App.3d at pages 959-960, insofar as it (1) states that a county's responsibility under section 17000 extends only to indigents as defined by the county's board of supervisors, and (2) suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of section 17000 but do not qualify for Medi-Cal.

24 Our conclusion is limited to this aspect of a county's duty under section 17000. We express no opinion regarding the scope of a county's duty to provide other forms of relief and support under section 17000.

25 The 1982 legislation made the subdivision operative until June 30, 1983. (Stats. 1982, ch. 1594, § 70, p. 6347.) In 1983, the Legislature repealed and reenacted section 16704, and extended the operative date of subdivision (c)(3) to June 30, 1985. (Stats. 1983, ch. 323, §§ 131.1, 131.2, pp. 1079-1080.)

26 Given our analysis, we express no opinion about the statement in *Cooke*, *supra*, 213 Cal.App.3d at page 412, footnote 9, that the "life" of section 16704, subdivision (c)(3), "was implicitly extended" by the fact that the "paragraph remains in the statute despite three subsequent amendments to the statute ...."

27 Although asserting that nothing required San Diego to provide "all" adult MIP's with medical care, the state never precisely identifies which adult MIP's were legally entitled to medical care and which ones were not. Nor does the state ever directly assert that some adult MIP's were not "indigent persons" under section 17000. On the contrary, despite its argument, the state seems to suggest that San Diego's medical care obligation under section 17000 extended even beyond adult MIP's. It asserts: "At no time prior to or following 1983 did Medi-Cal ever provide medical services to, or pay for medical services provided to, all persons who could not afford such services and therefore might be deemed 'medically indigent.' ... For some period prior to 1983, Medi-Cal paid for services for *some* indigent adults under its 'medically indigent adults' category.... [A]t *no time* did the state ever assume financial responsibility for all adults who are too indigent to afford health care." (Original italics.)

28 The state argues that former subdivision (c) is irrelevant to our determination because, like section 17000, it "predate[d] 1975." Our previous analysis rejecting this argument in connection with section 17000 applies here as well.

29 Statutes 1992, chapter 719, section 2, page 2882, repealed former subdivision (c) and enacted a new subdivision (c) in its place. This urgency measure was approved by the Governor on September 14, 1992, and filed with the Secretary of State on September 15, 1992.

30 We disapprove *Cooke*, *supra*, 213 Cal.App.3d at page 410, to the extent it held that Health and Safety Code section 1442.5, former subdivision (c), was merely "a limitation on a county's ability to close facilities or reduce services provided in those facilities," and was irrelevant absent a claim that a "county facility was closed [or] that any services in [the] county ... were reduced." Although former subdivision (c) was contained in a section that dealt in part with closures and service reductions, nothing limited its reach to that context.

31 During further proceedings before the Commission to determine the amount of reimbursement due San Diego, the state may argue that particular services available under San Diego's CMS program exceeded statutory requirements.

32 Consistent with the electorate's direction, in its application for CHIP funds, San Diego assured the state that it would "[e]xpend [CHIP] funds only to supplement existing levels of services provided and not to fund existing levels of service ...." Because San Diego's initial decision to seek CHIP funds was voluntary, the evidence it cites of state threats to withhold CHIP funds if it eliminated the CMS program is irrelevant.

33 Former section 16991, subdivision (a)(5), provided in full: "If the sum of funding that a county received from its allocation pursuant to Section 16703, the amount of reimbursement it received from federal State Legalization Impact Assistance Grant [(SLIAG)] funding for indigent care, and its share of funding provided in this section is less than the amount of funding the county received pursuant to Section 16703 in fiscal year 1988-89 the state shall reimburse the county for the amount of the difference. For the 1990-91 fiscal year, if the

sum of funding received from its allocation, pursuant to Section 16703 and the amount of reimbursement it received from [SLIAG] Funding for indigent care that year is less than the amount of funding the county received pursuant to Section 16703 in the 1988-89 fiscal year, the state shall reimburse the amount of the difference. If the department determines that the county has not made reasonable efforts to document and claim federal SLIAG funding for indigent care, the department shall deny the reimbursement." (Stats. 1989, ch. 1331, § 9, p. 5428.)

34 Despite its argument here, when it initially appealed, the state apparently recognized that it could no longer challenge the May 1991 order. In its March 1993 notice of appeal, it appealed only from the judgment entered December 18, 1992, and did not mention the May 1991 order.

* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

† Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

1 I agree with the majority that the superior court had jurisdiction to decide this case. (Maj. opn., *ante,* at pp. 86-90.)

2 Section 6 of article XIII B pertains to two types of mandates: new programs and higher levels of service. The words "such subvention" in the first paragraph of this constitutional provision makes the subdivision (c) exemption applicable to both types of mandates.

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KeyCite Yellow Flag - Negative Treatment
Distinguished by County of Sonoma v. Commission on State Mandates, Cal.App. 1 Dist., November 21, 2000

53 Cal.3d 482, 808 P.2d 235, 280 Cal.Rptr. 92
Supreme Court of California

COUNTY OF FRESNO, Plaintiff and Appellant,
v.
THE STATE OF CALIFORNIA et al., Defendants and Respondents.

No. S015637.
Apr 22, 1991.

SUMMARY

A county filed a test claim with the Commission on State Mandates seeking, under Cal. Const., art. XIII B, § 6 (state must provide subvention of funds to reimburse local governments for costs of state- mandated programs or increased levels of service), reimbursement from the state for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (Health & Saf. Code, § 25500 et seq.). The commission found the county had the authority to charge fees to pay for the program, and the program was thus not a reimbursable state-mandated program under Gov. Code, § 17556, subd. (d), which provides that costs are not state-mandated if the agency has authority to levy a charge or fee sufficient to pay for the program. The county filed a petition for writ of mandate and a complaint for declaratory relief against the state. The trial court denied relief. (Superior Court of Fresno County, No. 379518-4, Gary S. Austin, Judge.) The Court of Appeal, Fifth Dist., No. F011925, affirmed.

The Supreme Court affirmed the decision of the Court of Appeal. The court held, as to the single issue on review, that Gov. Code, § 17556, subd. (d), was facially constitutional under Cal. Const., art. XIII B, § 6. It held art. XIII B was not intended to reach beyond taxation, and § 6 was included in art. XIII B in recognition that Cal. Const., art. XIII A, severely restricted the taxing powers of local governments. It held that art. XIII B, § 6 was designed to protect the tax revenues of local governments from state mandates that would require an expenditure of such revenues and, when read in textual and historical context, requires subvention only when the costs in question can be recovered solely from tax revenues. Accordingly, the court held that Gov. Code, § 17556, subd. (d), effectively construed the term "cost" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that such a construction is altogether sound. (Opinion by Mosk, J., with Lucas, C. J., Broussard, ***483** Panelli, Kennard, JJ., and Best (Hollis G.), J.,* concurring. Separate concurring opinion by Arabian, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 11--Reimbursement to Local Governments for State-mandated Costs--Costs for Which Fees May Be Levied--Validity of Exclusion.
In a proceeding by a county seeking reversal of a decision by the Commission on State Mandates that the state was not required by Cal. Const., art. XIII B, § 6, to reimburse the county for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (Health & Saf. Code, § 25500 et seq.), the trial court properly found that Gov. Code, § 17556, subd. (d) (costs are not state-mandated if agency has authority to levy charge or fee sufficient to pay for program), was facially constitutional. Cal. Const., art. XIII B, was intended to apply to taxation and was not intended to reach beyond taxation, as is apparent from its language and confirmed by its history. It was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues; read in its textual and historical contexts, requires subvention only when the costs in question can be recovered solely from tax revenues. Gov. Code, § 17556, subd. (d), effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that construction is altogether sound. Accordingly, Gov. Code, § 17556, subd. (d), is facially constitutional under Cal. Const., art. XIII B, § 6.

[See **Cal.Jur.3d (Rev),** Municipalities, § 361; 9 **Witkin,** Summary of Cal. Law (9th ed. 1988) Taxation, § 124.]

COUNSEL

Max E. Robinson, County Counsel, and Pamela A. Stone, Deputy County Counsel, for Plaintiff and Appellant.
B. C. Barnum, County Counsel (Kern), and Patricia J. Randolph, Deputy County Counsel, as Amici Curiae on behalf of Plaintiff and Appellant. ***484**
John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, and Richard M. Frank, Deputy Attorney General, for Defendants and Respondents.

MOSK, J.

We granted review in this proceeding to decide whether section 17556, subdivision (d), of the Government Code (section 17556(d)) is facially valid under article XIII B, section 6, of the California Constitution (article XIII B, section 6).

Article XIII B, section 6, provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] (a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

The Legislature enacted Government Code sections 17500 through 17630 to implement article XIII B, section 6. (Gov. Code, § 17500.) It created a "quasi-judicial body" (*ibid.*) called the Commission on State Mandates (commission) (*id.,* § 17525) to "hear and decide upon [any] claim" by a local government that the local government "is entitled to be reimbursed by the state for costs" as required by article XIII B, section 6. (Gov. Code, § 17551, subd. (a).) It defined "costs" as "costs mandated by the state"—"any increased costs" that the local government "is required to incur ... as a result of any statute ..., or any executive order implementing any statute ..., which mandates a new program or higher level of service of any existing program" within the meaning of article XIII B, section 6. (Gov. Code, § 17514.) Finally, in section 17556(d) it declared that "The commission shall not find costs mandated by the state ... if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

For the reasons discussed below, we conclude that section 17556(d) is facially constitutional under article XIII B, section 6. ***485**

I. Facts and Procedural History

The present proceeding arose after the Legislature enacted the Hazardous Materials Release Response Plans and Inventory Act (Act). (Health & Saf. Code, § 25500 et seq.) The Act establishes minimum statewide standards for business and area plans relating to the handling and release or threatened release of hazardous materials. (*Id.,* § 25500.) It requires local governments to implement its provisions. (*Id.,* § 25502.) To cover the costs they may incur, it authorizes them to collect fees from those who handle hazardous materials. (*Id.,* § 25513.)

The County of Fresno (County) implemented the Act but chose not to impose the authorized fees. Instead, it filed a so-called "test" or initial claim with the commission (Gov. Code, § 17521) seeking reimbursement from the State of California (State) under article XIII B, section 6. After a hearing, the commission rejected the claim. In its statement of decision, the commission made the following findings, among others: the Act constituted a "new program"; the County did indeed incur increased costs; but because it had authority under the Act to levy fees sufficient to cover such costs, section 17556(d) prohibited a finding of reimbursable costs.

The County then filed a petition for writ of mandate and complaint for declaratory relief against the State, the commission, and others, seeking vacation of the commission's decision and a declaration that section 17556(d) is unconstitutional under article XIII B, section 6. While the matter was pending, the commission amended its statement of decision to include another basis for denial of the test claim: the Act did not constitute a "program" under the rationale of *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38, 729 P.2d 202] (*County of Los Angeles*), because it did not impose unique requirements on local governments.

After a hearing, the trial court denied the petition and effectively dismissed the complaint. It determined, inter

alia, that mandate under Code of Civil Procedure section 1094.5 was the County's sole remedy, and that the commission was the sole properly named respondent. It also determined that section 17556(d) is constitutional under article XIII B, section 6. It did not address the question whether the Act constituted a "program" under *County of Los Angeles*. Judgment was entered accordingly.

The Court of Appeal affirmed. It held the Act did indeed constitute a "program" under *County of Los Angeles, supra,* 43 Cal.3d 46. It also held section 17556(d) is constitutional under article XIII B, section 6. ***486**

(1) We granted review to decide a single issue, i.e., whether section 17556(d) is facially constitutional under article XIII B, section 6.

II. Discussion

We begin our analysis with the California Constitution. At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new "special taxes." (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281].) The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522] (*City of Sacramento*).)

At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

"Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend [taxes] for public purposes." (*City of Sacramento, supra,* 50 Cal.3d at p. 59, fn. 1.)

Article XIII B of the Constitution was intended to apply to taxation—specifically, to provide "permanent protection for taxpayers from excessive taxation" and "a reasonable way to provide discipline in tax spending at state and local levels." (See *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232], quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument in favor of Prop. 4, p. 18.) To this end, it establishes an "appropriations limit" for both state and local governments (Cal. Const., art. XIII B, § 8, subd. (h)) and allows no "appropriations subject to limitation" in excess thereof (*id.,* § 2). (See *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 446.) It defines the relevant "appropriations subject to limitation" as "any authorization to expend during a fiscal year the proceeds of taxes ...." (Cal. Const., art. XIII B, § 8, subd. (b).) It defines "proceeds of taxes" as including "all tax revenues and the proceeds to ... government from," inter alia, "regulatory licenses, user charges, and user fees *to the extent that such proceeds exceed the costs reasonably borne by* [*government*] *in providing the regulation, product, or service* ...." (Cal. Const., art. XIII B, § 8, subd. (c), italics added.) Such "excess" proceeds from "licenses," "charges," and "fees" "are but ***487** *taxes*" for purposes here. (*County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 451, italics in original.)

Article XIII B of the Constitution, however, was not intended to reach beyond taxation. That fact is apparent from the language of the measure. It is confirmed by its history. In his analysis, the Legislative Analyst declared that Proposition 4 "would not restrict the growth in appropriations financed from other [i.e., nontax] sources of revenue, including federal funds, bond funds, traffic fines, user fees based on reasonable costs, and income from gifts." (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), analysis by Legislative Analyst, p. 16.)

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles, supra,* 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6 [244 Cal.Rptr. 677, 750 P.2d 318].) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such

revenues. Thus, although its language broadly declares that the "state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.

In view of the foregoing analysis, the question of the facial constitutionality of section 17556(d) under article XIII B, section 6, can be readily resolved. As noted, the statute provides that "The commission shall not find costs mandated by the state ... if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service." Considered within its context, the section effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes. Such a construction is altogether sound. As the discussion makes clear, the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes. It follows that section 17556(d) is facially constitutional under article XIII B, section 6.

The County argues to the contrary. It maintains that section 17556(d) in essence creates a new exception to the reimbursement requirement of article ***488** XIII B, section 6, for self-financing programs and that the Legislature cannot create exceptions to the reimbursement requirement beyond those enumerated in the Constitution.

We do not agree that in enacting section 17556(d) the Legislature created a new exception to the reimbursement requirement of article XIII B, section 6. As explained, the Legislature effectively—and properly—construed the term "costs" as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the requirement. Therefore, they need not be explicitly excepted from its reach.

The County nevertheless argues that no matter how characterized, section 17556(d) is indeed inconsistent with article XIII B, section 6. Its contention is in substance as follows: the source of section 17556(d) is former Revenue and Taxation Code section 2253.2; at the time of Proposition 4, subdivision (b)(4) of that former section stated that the State Board of Control shall not allow a claim for reimbursement of costs mandated by the state if the legislation contains a self-financing authority; the drafters of Proposition 4 incorporated some of the provisions of former Revenue and Taxation Code section 2253.2 into article XIII B, section 6, but did not incorporate former subdivision (b)(4); their failure to do so reveals an intent to treat as immaterial the presence or absence of a "self-financing" provision; and such an intent is confirmed by the "legislative history" set out at page 55 in Spirit of 13, Inc., Summary of Proposed Implementing Legislation and Drafters' Intent: "the state may not arbitrarily declare that it is not going to comply with Section 6 ... if the state provides new compensating revenues."

In our view, the County's argument is unpersuasive. Even if we assume arguendo that the intent of those who drafted Proposition 4 is as claimed, what is crucial here is the intent of those who voted for the measure. (See *County of Los Angeles, supra,* 43 Cal.3d 46, 56.) There is no substantial evidence that the voters sought what the County assumes the drafters desired. Moreover, the "legislative history" cited above cannot be considered relevant; it was written and circulated after the passage of Proposition 4. As such, it could not have affected the voters in any way.

To avoid this result, the County advances one final argument: "Based on the authority of [section 17556(d)], the Commission on State Mandates refuses to hear mandates on the merits once it finds that the authority to charge fees is given by the Legislature. This position is taken whether or not fees can actually or legally be charged to recover the entire costs of the program." ***489**

The County appears to be making one or both of the following arguments: (1) the commission applies section 17556(d) in an unconstitutional manner; or (2) the Act's self-financing authority is somehow lacking. Such contentions, however, miss the designated mark. They raise questions bearing on the constitutionality of section 17556(d) as applied and the legal efficacy of the authority conferred by the Act. The sole issue on review, however, is the facial constitutionality of section 17556(d).

III. Conclusion

For the reasons set forth above, we conclude that section 17556(d) is facially constitutional under article XIII B, section 6.

The judgment of the Court of Appeal is affirmed.

Lucas, C. J., Broussard, J., Panelli, J., Kennard, J., and Best (Hollis G.), J.,* concurred.

ARABIAN, J.,

Concurring.

I concur in the determination that Government Code section 17556, subdivision (d)[1] (section 17556(d)), does not offend article XIII B, section 6, of the California Constitution (article XIII B, section 6). In my estimation, however, the constitutional measure of the issue before us warrants fuller examination than the majority allow. A literalistic analysis begs the question of whether the Legislature had the authority to act statutorily upon a subject matter the electorate has spoken to constitutionally through the initiative process.

Article XIII B, section 6, unequivocally commands that "the state shall provide a subvention of funds to reimburse ... local government for the costs of [a new] program or increased level of service" except as specified therein. Article XIII B does not define this reference to "costs." (See Cal. Const., art. XIII B, § 8.) Rather, the Legislature assumed the task of explicating the related concept of "costs mandated by the state" when it created the Commission on State Mandates and enacted procedures intended to implement article XIII B, section 6, more effectively. (See § 17500 et seq.) As part of this statutory scheme, it exempted the state from its constitutionally imposed subvention obligation under certain enumerated circumstances. Some of these exemptions the electorate expressly contemplated in approving article XIII B, section 6 (§ 17556, subds. (a), (c), & (g); see § 17514), while others are strictly of legislative formulation and derive from ***490** former Revenue and Taxation Code section 2253.2. (§ 17556, subds. (b), (d), (e), & (f).)

The majority find section 17556 valid notwithstanding the mandatory language of article XIII B, section 6, based on the circular and conclusory rationale that "the Legislature effectively—and properly—construed the term 'costs' as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the [subvention] requirement. Therefore, they need not be explicitly excepted from its reach." (Maj. opn., *ante,* at p. 488*ante,* at p. 488.) In my view, excluding or otherwise removing something from the purview of a law is tantamount to creating an exception thereto. When an exclusionary implication is clear from the import or effect of the statutory language, use of the word "except" should not be necessary to construe the result for what it clearly is. In this circumstance, "I would invoke the folk wisdom that if an object looks like a duck, walks like a duck and quacks like a duck, it is likely to be a duck." (*In re Deborah C.* (1981) 30 Cal.3d 125, 141 [177 Cal.Rptr. 852, 635 P.2d 446] (conc. opn. by Mosk, J.).)

Of at least equal importance, section 17500 et seq. constitutes a legislative implementation of article XIII B, section 6. As such, the overall statutory scheme must comport with the express constitutional language it was designed to effectuate as well as the implicit electoral intent. Eschewing semantics, I would squarely and forthrightly address the fundamental and substantial question of whether the Legislature could lawfully enlarge upon the scope of article XIII B, section 6, to include exceptions not originally designated in the initiative.

I do not hereby seek to undermine the majority holding but rather to set it on a firmer constitutional footing. "[S]tatutes must be given a reasonable interpretation, one which will carry out the intent of the legislators and render them valid and operative rather than defeat them. In so doing, sections of the Constitution, as well as the codes, will be harmonized where reasonably possible, in order that all may stand." (*Rose v. State of California* (1942) 19 Cal.2d 713, 723 [123 P.2d 505]; see also *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 58 [233 Cal.Rptr. 38, 729 P.2d 202].) To this end, it is a fundamental premise of our form of government that "the Constitution of this State is not to be considered as a grant of power, but rather as a restriction upon the powers of the Legislature; and ... it is competent for the Legislature to exercise all powers not forbidden ...." (*People v. Coleman* (1854) 4 Cal. 46, 49.) "Two important consequences flow from this fact. First, the entire law-making authority of the state, except the people's right of initiative and referendum, is vested in the ***491**

Legislature, and that body may exercise any and all legislative powers which are not expressly or by necessary implication denied to it by the Constitution. [Citations.] *In other words, 'we do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited.'* [Citation.] [¶] Secondly, all intendments favor the exercise of the Legislature's plenary authority: 'If there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action. Such restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used.' [Citations.]" (*Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691 [97 Cal.Rptr. 1, 488 P.2d 161], italics added.) "Specifically, the express enumeration of legislative powers is not an exclusion of others not named unless accompanied by negative terms. [Citations.]" (*Dean v. Kuchel* (1951) 37 Cal.2d 97, 100 [230 P.2d 811].)

As the majority opinion impliedly recognizes, neither the language nor the intent of article XIII B conflicts with the exercise of legislative prerogative we review today. Of paramount significance, neither section 6 nor any other provision of article XIII B prohibits statutory delineation of additional circumstances obviating reimbursement for state mandated programs. (See *Dean v. Kuchel, supra,* 37 Cal.2d at p. 101; *Roth Drugs, Inc. v. Johnson* (1936) 13 Cal.App.2d 720, 729 [57 P.2d 1022]; see also *Kehrlein v. City of Oakland* (1981) 116 Cal.App.3d 332, 338 [172 Cal.Rptr. 111].)

Furthermore, the initiative was "[b]illed as a flexible way to provide discipline in government spending" by creating appropriations limits to restrict the amount of such expenditures. (*County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447 [170 Cal.Rptr. 232]; see Cal. Const., art. XIII B, § 1.) By their nature, user fees do not affect the equation of local government spending: While they facilitate implementation of newly mandated state programs or increased levels of service, they are excluded from the "appropriations subject to limitations" calculation and its attendant budgetary constraints. (See Cal. Const., art. XIII B, § 8; see also *City Council v. South* (1983) 146 Cal.App.3d 320, 334 [194 Cal.Rptr. 110]; *County of Placer v. Corin, supra,* 113 Cal.App.3d at pp. 448-449; Cal. Const., art. XIII B, § 3, subd. (b); cf. *Russ Bldg. Partnership v. City and County of San Francisco* (1987) 199 Cal.App.3d 1496, 1505 [246 Cal.Rptr. 21] [" 'fees not exceeding the reasonable cost of providing the service or regulatory activity for which the fee is charged and which are not levied for general revenue purposes, have been considered outside the realm of "special taxes" [limited by California Constitution, article XIII A]' "]; *Terminal Plaza Corp. v. City* ***492** *and County of San Francisco* (1986) 177 Cal.App.3d 892, 906 [223 Cal.Rptr. 379] [same].)

This conclusion fully accommodates the intent of the voters in adopting article XIII B, as reflected in the ballot materials accompanying the proposition. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 245-246 [149 Cal.Rptr. 239, 583 P.2d 1281].) In general, these materials convey that "[t]he goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 61; *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100, 109- 110 [211 Cal.Rptr. 133, 695 P.2d 220].) To the extent user fees are not borne by the general public or applied to the general revenues, they do not bear upon this purpose. Moreover, by imputation, voter approval contemplated the continued imposition of reasonable user fees outside the scope of article XIII B. (Ballot Pamp., Proposed Amends. to Cal. Const. with arguments to voters, Limitation of Government Appropriations, Special Statewide Elec. (Nov. 6, 1979), arguments in favor of and against Prop. 4, p. 18 [initiative "Will curb excessive user fees imposed by local government" but "will Not eliminate user fees ..."]; see *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 452.)

"The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 56; see *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66 [266 Cal.Rptr. 139, 785 P.2d 522].) "Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to

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local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 61.) An exemption from reimbursement for state mandated programs for which local governments are authorized to charge offsetting user fees does not frustrate or compromise these goals or otherwise disturb the balance of local government financing and expenditure.[2] (See ***493** *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 452, fn. 7.) Article XIII B, section 8, subdivision (c), specifically includes regulatory licenses, user charges, and user fees in the appropriations limitation equation only "to the extent that those proceeds exceed the costs reasonably borne by [the governmental] entity in providing the regulation, product, or service ...."

The self-executing nature of article XIII B does not alter this analysis. "It has been uniformly held that the legislature has the power to enact statutes providing for reasonable regulation and control of rights granted under constitutional provisions. [Citations.]" (*Chesney v. Byram* (1940) 15 Cal.2d 460, 465 [101 P.2d 1106].) " ' "Legislation may be desirable, by way of providing convenient remedies for the protection of the right secured, or of regulating the claim of the right so that its exact limits may be known and understood; but all such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it." [Citations.]' " (*Id.,* at pp. 463-464; see also *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750].) Section 17556(d) is not "merely [a] transparent attempt[] to do indirectly that which cannot lawfully be done directly." (*Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 541 [234 Cal.Rptr. 795].) On the contrary, it creates no conflict with the constitutional directive it subserves. Hence, rather than pursue an interpretive expedient, this court should expressly declare that it operates as a valid legislative implementation thereof.

"[Initiative] provisions of the Constitution and of charters and statutes should, as a general rule, be liberally construed in favor of the reserved power. [Citations.] As opposed to that principle, however, 'in examining and ascertaining the intention of the people with respect to the scope and nature of those ... powers, it is proper and important to consider what the consequences of applying it to a particular act of legislation would be, and if upon such consideration it be found that by so applying it the inevitable effect would be greatly to impair or wholly destroy the efficacy of some other governmental power, the practical application of which is essential and, perhaps, ... indispensable, to the convenience, comfort, and well-being of the inhabitants of certain legally established districts or subdivisions of the state or of the whole state, then in such case the courts may and should assume that the people intended no such result to flow from the application of those powers and that they do not so apply.' [Citation.]" (*Hunt v. Mayor & Council of Riverside* (1948) 31 Cal.2d 619, 628-629 [191 P.2d 426].) ***494**

This court is not infrequently called upon to resolve the tension of apparent or actual conflicts in the express will of the people.[3] Whether that expression emanates directly from the ballot or indirectly through legislative implementation, each deserves our fullest estimation and effectuation. Given the historical and abiding role of government by initiative, I decline to circumvent that responsibility and accept uncritically the Legislature's self-validating statutory scheme as the basis for approving the exercise of its prerogative. It is not enough to say a broader constitutional analysis yields the same result and therefore is unnecessary. We provide a higher quality of justice harmonizing rather than ignoring the divers voices of the people, for such is the nature of our office. ***495**

Footnotes

* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

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* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

1 Unless otherwise indicated, all further statutory references are to the Government Code.

2 This conclusion also accords with the traditional and historical role of user fees in promoting the multifarious functions of local government by imposing on those receiving a service the cost of providing it. (Cf. *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 454 ["Special assessments, being levied only for improvements that benefit particular parcels of land, and not to raise general revenues, are simply not the type of exaction that can be used as a mechanism for circumventing these tax relief provisions. [Citation.]"].)

3 See, e.g., *Zumwalt v. Superior Court* (1989) 49 Cal.3d 167 [260 Cal.Rptr. 545, 776 P.2d 247]; *Los Angeles County Transportation Com. v. Richmond* (1982) 31 Cal.3d 197 [182 Cal.Rptr. 324, 643 P.2d 941]; *California Housing Finance Agency v. Patitucci* (1978) 22 Cal.3d 171 [148 Cal.Rptr. 875, 583 P.2d 729]; *California Housing Finance Agency v. Elliott* (1976) 17 Cal.3d 575 [131 Cal.Rptr. 361, 551 P.2d 1193]; *Blotter v. Farrell* (1954) 42 Cal.2d 804 [270 P.2d 481]; *Dean v. Kuchel, supra,* 37 Cal.2d 97; *Hunt v. Mayor & Council of Riverside, supra,* 31 Cal.2d 619.

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55 Cal.App.4th 976, 64 Cal.Rptr.2d 270, 97 Cal. Daily Op. Serv. 4510, 97 Daily Journal D.A.R. 7464

REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS, Plaintiff and Appellant,
v.
CALIFORNIA COMMISSION ON STATE MANDATES, Defendant and Respondent;
CALIFORNIA DEPARTMENT OF FINANCE, Intervener and Respondent.

No. D026195.
Court of Appeal, Fourth District, Division 1, California.
May 30, 1997.

SUMMARY

The trial court denied a petition for a writ of administrative mandate brought by a city's redevelopment agency that challenged the California Commission on State Mandates' denial of the agency's test claim under Gov. Code, § 17550 et seq. (reimbursement of costs mandated by the state). In its claim, the agency sought a determination that the State of California should reimburse the agency for moneys transferred into its lowand moderate-income housing fund pursuant to Health & Saf. Code, §§ 33334.2 and 33334.3, of the Community Redevelopment Law. Those statutes require a 20 percent deposit of the particular form of financing received by the agency (tax increment financing generated from its project areas) for purposes of improving the supply of affordable housing. The agency claimed that this tax increment financing should not be subject to state control of the allocations made to various funds and that such control constituted a state-mandated new program or higher level of service for which reimbursement or subvention was required under Cal. Const., art. XIII B, § 6. The trial court found that the source of funds used by the agency was exempt, under Health & Saf. Code, § 33678, from the scope of Cal. Const., art. XIII B, § 6. (Superior Court of San Diego County, No. 686818, Sheridan E. Reed and Herbert B. Hoffman, Judges.)

The Court of Appeal affirmed. It held that under Health & Saf. Code, § 33678, which provides that tax increment financing is not deemed to be the "proceeds of taxes," the source of funds used by the agency was exempt ***977** from the scope of Cal. Const., art. XIII B, § 6. Although Cal. Const., art. XIII B, § 6, does not expressly discuss the source of funds used by an agency to fund a program, the historical and contextual context of this provision demonstrates that it applies only to costs recovered solely from tax revenues. Because of the nature of the financing they receive (i.e., tax increment financing), redevelopment agencies are not subject to appropriations limitations or spending caps, they do not expend any proceeds of taxes, and they do not raise general revenues for the local entity. Also, the state is not transferring any program for which it was formerly responsible. Therefore, the purposes of state subvention laws are not furthered by requiring reimbursement when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of Health & Saf. Code, §§ 33334.2 and 33334.3. (Opinion by Huffman, J., with Work, Acting P. J., and McIntyre, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 11--Fiscal Matters--Subvention:Words, Phrases, and Maxims--Subvention.
"Subvention" generally means a grant of financial aid or assistance, or a subsidy.

(2)
State of California § 11--Fiscal Matters--Subvention--Judicial Rules.
Under Gov. Code, § 17559, review by administrative mandamus is the exclusive method of challenging a decision of the California Commission on State Mandates to deny a subvention claim. The determination whether the statutes at issue established a mandate under Cal. Const., art. XIII B, § 6, is a question of law. On appellate review, the following standards apply: Gov. Code, § 17559, governs the proceeding below and requires that the trial court review the decision of the commission under the substantial evidence standard. Where the substantial evidence test is applied by the trial court, the appellate court is generally confined to inquiring whether substantial evidence supports the trial court's findings and judgment. However, the appellate court independently reviews the trial court's legal conclusions

about the meaning and effect of constitutional and statutory provisions.

(3a, 3b)
State of California § 11--Fiscal Matters--Subvention--State-mandated Costs--Statutory Set-aside Requirement for Local Redevelopment Agency's Tax Increment Financing.
The California Commission on State Mandates properly denied a test claim brought by a city's redevelopment agency seeking a determination that the state should reimburse the agency for moneys transferred into its lowand ***978** moderate-income housing fund pursuant to Health & Saf. Code, §§ 33334.2 and 33334.3, which require a 20 percent deposit of the particular form of financing received by the agency, i.e., tax increment financing generated from its project areas. Under Health & Saf. Code, § 33678, which provides that tax increment financing is not deemed to be the "proceeds of taxes," the source of funds used by the agency was exempt from the scope of Cal. Const., art. XIII B, § 6 (subvention). Although Cal. Const., art. XIII B, § 6, does not expressly discuss the source of funds used by an agency to fund a program, the historical and contextual context of this provision demonstrates that it applies only to costs recovered solely from tax revenues. Because of the nature of the financing they receive (i.e., tax increment financing), redevelopment agencies are not subject to appropriations limitations or spending caps, they do not expend any proceeds of taxes, and they do not raise general revenues for the local entity. Also, the state is not transferring any program for which it was formerly responsible. Therefore, the purposes of state subvention laws are not furthered by requiring reimbursement when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of Health & Saf. Code, §§ 33334.2 and 33334.3.

[See 9 Witkin, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

(4)
Constitutional Law § 10--Construction of Constitutional Provisions-- Limitations on Legislative Powers.
The rules of constitutional interpretation require a strict construction of a constitutional provision that contains limitations and restrictions on legislative powers, because such limitations and restrictions are not to be extended to include matters not covered by the language used.

(5)
State of California § 11--Fiscal Matters--Subvention--Purpose of Constitutional Provisions.
The goal of Cal. Const., arts. XIII A and XIII B, is to protect California residents from excessive taxation and government spending. A central purpose of Cal. Const., art. XIII B, § 6 (reimbursement to local government of state-mandated costs), is to prevent the state's transfer of the cost of government from itself to the local level.

COUNSEL
Higgs, Fletcher & Mack and John Morris for Plaintiff and Appellant.
Gary D. Hori for Defendant and Respondent. ***979**
Daniel E. Lungren, Attorney General, Robert L. Mukai, Chief Assistant Attorney General, Linda A. Cabatic and Daniel G. Stone, Deputy Attorneys General, for Intervener and Respondent.

HUFFMAN, J.

The California Commission on State Mandates (the Commission) denied a test claim by the Redevelopment Agency of the City of San Marcos (the Agency) (Gov. Code, § 17550 et seq.), which sought a determination that the State of California should reimburse the Agency for moneys transferred into its Low and Moderate Income Housing Fund (the Housing Fund) pursuant to Health and Safety Code [1] sections 33334.2 and 33334.3. Those sections require a 20 percent deposit of the particular form of financing received by the Agency, tax increment financing generated from its project areas, for purposes of improving the supply of affordable housing. (1)**(See fn. 2)**The Agency claimed that this tax increment financing should not be subject to state control of the allocations made to various funds and that such control constituted a state-mandated new program or higher level of service for which reimbursement or subvention was required under article XIII B of the California Constitution, section 6 (hereafter section 6; all further references to articles are to the California Constitution). [2] (Cal. Const., art. XVI, § 16; § 33670.)

The Agency brought a petition for writ of administrative mandamus to challenge the decision of the Commission. (Code Civ. Proc., § 1094.5; Gov. Code, § 17559.) The superior court denied the petition, ruling that the source of funds used by the Agency for redevelopment, tax increment financing, was exempt pursuant to section 33678 from the

scope of section 6, as not constituting "proceeds of taxes" which are governed by that section. The superior court did not rule upon the alternative grounds of decision stated by the Commission, i.e., the 20 percent set-aside requirement for lowand moderate-income housing did not impose a new program or higher level of service in an existing program within the meaning of section 6, and, further, there were no costs subject to reimbursement related to the Housing Fund because there was no net increase in the aggregate program responsibilities of the Agency.

The Agency appeals the judgment denying its petition for writ of mandate. For the reasons set forth below, we affirm. ***980**

I. Procedural Context

This test claim was litigated before the Commission pursuant to statutory procedures for determining whether a statute imposes state-mandated costs upon a local agency which must be reimbursed, through a subvention of funds, under section 6. (Gov. Code, § 17500 et seq.)[3] The Commission hearing consisted of oral argument on the points and authorities presented.

(2) Under Government Code section 17559, review by administrative mandamus is the exclusive method of challenging a Commission decision denying a subvention claim. "The determination whether the statutes here at issue established a mandate under section 6 is a question of law. [Citation.]" (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109 [61 Cal.Rptr.2d 134, 931 P.2d 312].) On appellate review, we apply these standards: "Government Code section 17559 governs the proceeding below and requires that the trial court review the decision of the Commission under the substantial evidence standard. Where the substantial evidence test is applied by the trial court, we are generally confined to inquiring whether substantial evidence supports the court's findings and judgment. [Citation.] However, we independently review the superior court's legal conclusions about the meaning and effect of constitutional and statutory provisions. [Citation.]" (*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1810 [53 Cal.Rptr.2d 521].)

II. Statutory Schemes

Before we outline the statutory provisions setting up tax increment financing for redevelopment agencies, we first set forth the Supreme Court's recent summary of the history and substance of the law applicable to state mandates, such as the Agency claims exist here: "Through adoption of Proposition 13 in 1978, the voters added article XIII A to the California Constitution, which 'imposes a limit on the power of state and local governments to ***981** adopt and levy taxes. [Citation.]' [Citation.] The next year, the voters added article XIII B to the Constitution, which 'impose[s] a complementary limit on the rate of growth in governmental spending.' [Citation.] These two constitutional articles 'work in tandem, together restricting California governments' power both to levy and to spend for public purposes.' [Citation.] Their goals are 'to protect residents from excessive taxation and government spending. [Citation.]' [Citation.]" (*County of San Diego v. State of California*, *supra*, 15 Cal.4th at pp. 80-81.)

Section 6, part of article XIII B and the provision here at issue, requires that whenever the Legislature or any state agency mandates a "new program or higher level of service" on any local government, " 'the state shall provide a subvention of funds to reimburse such local government for *the costs of such program* or increased level of service ....' " (*County of San Diego v. State of California*, *supra*, 15 Cal.4th at p. 81, italics added.) Certain exceptions are then stated, none of which is relevant here.[4]

In *County of San Diego v. State of California*, *supra*, 15 Cal.4th at page 81, the Supreme Court explained that section 6 represents a recognition that together articles XIII A and XIII B severely restrict the taxing and spending powers of local agencies. The purpose of the section is to preclude the state from shifting financial responsibility for governmental functions to local agencies, which are ill equipped to undertake increased financial responsibilities because they are subject to taxing and spending limitations under articles XIII A and XIII B. (*County of San Diego v. State of California*, *supra*, at p. 81.)

To evaluate the Agency's argument that the provisions of sections 33334.2 and 33334.3, requiring a deposit into the housing fund of 20 percent of the tax increment financing received by the Agency, impose this type of reimbursable governmental program or a higher level of service under an existing program, we first review the provisions establishing financing for redevelopment agencies. Such agencies have no independent powers of taxation (***982** *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100,

106 [211 Cal.Rptr. 133, 695 P.2d 220]), but receive a portion of tax revenues collected by other local agencies from property within a redevelopment project area, which may result from the following scheme: "Redevelopment agencies finance real property improvements in blighted areas. Pursuant to article XVI, section 16 of the Constitution, these agencies are authorized to use tax increment revenues for redevelopment projects. The constitutional mandate has been implemented through the Community Redevelopment Law (Health & Saf. Code, § 33000 et seq.). [¶] The Community Redevelopment Law authorizes several methods of financing; one is the issuance of tax allocation bonds. Tax increment revenue, the increase in annual property taxes attributable to redevelopment improvements, provides the security for tax allocation bonds. Tax increment revenues are computed as follows: The real property within a redevelopment project area is assessed in the year the redevelopment plan is adopted. Typically, after redevelopment, property values in the project area increase. The taxing agencies (e.g., city, county, school or special district) keep the tax revenues attributable to the original assessed value and pass the portion of the assessed property value which exceeds the original assessment on to the redevelopment agency. (Health & Saf. Code, §§ 33640, 33641, 33670, 33675). In short, tax increment financing permits a redevelopment agency to take advantage of increased property tax revenues in the project areas without an increase in the tax rate. This scheme for redevelopment financing has been a part of the California Constitution since 1952. (Cal. Const., art. XVI, § 16.)" (*Brown v. Community Redevelopment Agency* (1985) 168 Cal.App.3d 1014, 1016-1017 [214 Cal.Rptr. 626].) [5]

In *Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pages 1016-1018, the court determined that by enacting section 33678, the Legislature interpreted article XIII B of the Constitution as not broad enough in reach to cover the raising or spending of tax increment revenues by redevelopment agencies. Specifically, the court decided the funds a redevelopment agency receives from tax increment financing do not constitute "proceeds of taxes" subject to article XIII B appropriations limits. (*Brown v. Community Redevelopment Agency*, *supra*, at p. 1019). [6] This ruling was based on section 33678, providing in pertinent part: "This section implements and fulfills the intent ... of Article XIII B and ***983** Section 16 of Article XVI of the California Constitution. *The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on ... indebtedness incurred for redevelopment activity ... shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning of or for the purposes of Article XIII B ... nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B ...* or any statutory provision enacted in implementation of Article XIII B. *The allocation and payment to an agency of this portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B of the California Constitution.*" (Italics added.)

In *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451 [170 Cal.Rptr. 232], the court defined "proceeds of taxes" in this way: "Under article XIII B, with the exception of state subventions, the items that make up the scope of ' "proceeds of taxes" ' concern charges levied to raise *general revenues* for the local entity. ' "Proceeds of taxes," ' in addition to 'all tax revenues' includes 'proceeds ... from ... regulatory licenses, user charges, and user fees [*only*] *to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product or service....*' (§ 8, subd. (c).) (Italics added.) Such 'excess' regulatory or user fees are but *taxes* for the raising of general revenue for the entity. [Citations.] Moreover, to the extent that an assessment results in revenue above the cost of the improvement or is of general public benefit, it is no longer a special assessment but a tax. [Citation.] *We conclude 'proceeds of taxes' generally contemplates only those impositions which raise general tax revenues for the entity.*" (Italics added.) [7]

(3a) In light of these interrelated sections and concepts, our task is to determine whether the 20 percent Housing Fund set-aside requirement of a redevelopment agency's tax increment financing qualifies under section 6 as a "cost" of a program. As will be explained, we agree with the trial court that the resolution of this issue is sufficient to dispose of the entire matter, and ***984** accordingly we need not discuss the alternate grounds of decision stated by the Commission. [8]

III. Housing Fund Allocations: Reimbursable Costs?

1. *Arguments*

The Agency takes the position that the language of section 33678 is simply inapplicable to its claim for subvention

of funds required to be deposited into the Housing Fund. It points out that section 6 expressly lists three exceptions to the requirement for subvention of funds to cover the costs of state-mandated programs: (a) Legislative mandates requested by the local agency affected; (b) legislation defining or changing a definition of a crime; or (c) pre-1975 legislative mandates or implementing regulations or orders. (See fn. 4, *ante*.*ante*.) None of these exceptions refers to the source of the funding originally used by the agency to pay the costs incurred for which reimbursement is now being sought. Thus, the agency argues it is immaterial that under section 33678, *for purposes of appropriations limitations*, tax increment financing is not deemed to be the "proceeds of taxes." (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1017-1020.) The Agency would apply a "plain meaning" rule to section 6 (see, e.g., *Davis v. City of* Berkeley (1990) 51 Cal.3d 227, 234 [272 Cal.Rptr. 139, 794 P.2d 897]) and conclude that the source of the funds used to pay the program costs up front, before any subvention, is not stated in the section and thus is not relevant.

As an illustration of its argument that the source of its funds is irrelevant under section 6, the Agency cites to Government Code section 17556. That section is a legislative interpretation of section 6, creating several classes of state-mandated programs for which no state reimbursement of local agencies for costs incurred is required. In *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487 [280 Cal.Rptr. 92, 808 P.2d 235], the Supreme Court upheld the facial constitutionality of Government Code section 17556, subdivision (d), which disallows state subvention of funds where the local government is authorized to collect service charges or fees in connection with a mandated program. The court explained that section 6 "was designed to protect the tax revenues of local governments from state mandates that ***985** would require expenditure of such revenues." (*County of Fresno v. State of California*, *supra*, at p. 487.) Based on the language and history of the measure, the court stated, "Article XIII B of the Constitution, however, was not intended to reach beyond taxation." (*Ibid.*) The court therefore concluded that in view of its textual and historical context, section 6 "requires subvention only when the costs in question can be recovered *solely from tax revenues*." (*Ibid.*, original italics.) Interpreting section 6, the court stated: "Considered within its context, the section effectively construes the term 'costs' in the constitutional provision as excluding expenses that are recoverable from sources other than taxes." (*Ibid.*) No subvention was required where the local authority could recover its expenses through fees or assessments, not taxes.

2. *Interpretation of Section 6*

Here, the Agency contends the authority of *County of Fresno v. State of California*, *supra*, *53* Cal.3d 482, should be narrowly read to cover only self-financing programs, and the Supreme Court's broad statements defining "costs" in this context read as mere dicta. It also continues to argue for a "plain meaning" reading of section 6, which it reiterates does not expressly discuss the source of funds used by an agency to pay the costs of a program before any reimbursement is sought. We disagree with both of these arguments. The correct approach is to read section 6 in light of its historical and textual context. (4) The rules of constitutional interpretation require a strict construction of section 6, because constitutional limitations and restrictions on legislative powers are not to be extended to include matters not covered by the language used. (*City of San Jose v. State of California*, *supra*, 45 Cal.App.4th at pp. 1816-1817.)

(5) The goals of articles XIII A and XIII B are to protect California residents from excessive taxation and government spending. (*County of Los Angeles v. State of California*, *supra*, 15 Cal.4th at p. 81.) A central purpose of section 6 is to prevent the state's transfer of the cost of government from itself to the local level. (*City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68.) (3b) The related goals of these enactments require us to read the term "costs" in section 6 in light of the enactment as a whole. The "costs" for which the Agency is seeking reimbursement are its deposits of tax increment financing proceeds into the Housing Fund. Those tax increment financing proceeds are normally received pursuant to the Community Redevelopment Law (§ 33000 et seq.) when, after redevelopment, the taxing agencies collect and keep the tax revenues attributable to the original assessed value and pass on to the redevelopment agency the portion of the ***986** assessed property value which exceeds the original assessment. (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1016-1017.) Is this the type of expenditure of tax revenues of local governments, upon state mandates which require use of such revenues, against which section 6 was designed to protect? (*County of Fresno v. State of California*, *supra*, 53 Cal.3d at p. 487.)

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3. *Relationship of Appropriations Limitations and Subvention*

We may find assistance in answering this question by looking to the type of appropriations limitations imposed by article XIII B. In *County of Placer v. Corin*, *supra*, 113 Cal.App.3d at page 447, the court described the discipline imposed by article XIII B in this way: "[A]rticle XIIIB does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on 'appropriations subject to limitation,' which consists primarily of the authorization to expend during a fiscal year the 'proceeds of taxes.' (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute 'proceeds of taxes.' " [9]

Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "*general revenues* for the local entity." (*County of Placer v. Corin*, *supra*, 113 Cal.App.3d at p. 451, original italics.) The purpose for which state subvention of funds was created, to protect local agencies from having the state transfer its cost of government from itself to the local level, is therefore not brought into play when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of sections 33334.2 and 33334.3. (See *City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68.) The state is not transferring to the Agency the operation and administration of a program for which it was formerly legally and financially ***987** responsible. (*County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, 817 [38 Cal.Rptr.2d 304].) [10]

For all these reasons, we conclude the same policies which support exempting tax increment revenues from article XIII B appropriations limits also support denying reimbursement under section 6 for this particular allocation of those revenues to the Housing Fund. Tax increment financing is not within the scope of article XIII B. (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1016-1020.) Section 6 "requires subvention only when the costs in question can be recovered *solely from tax revenues*." (*County of Fresno v. State of California*, *supra*, 53 Cal.3d at p. 487, original italics.) No state duty of subvention is triggered where the local agency is not required to expend its proceeds of taxes. Here, these costs of depositing tax increment revenues in the Housing Fund are attributable not directly to tax revenues, but to the benefit received by the Agency from the tax increment financing scheme, which is one step removed from other local agencies' collection of tax revenues. (§ 33000 et seq.) Therefore, in light of the above authorities, this use of tax increment financing is not a reimbursable "cost" under section 6. We therefore need not interpret any remaining portions of section 6.

Disposition

The judgment is affirmed.

Work, Acting P. J., and McIntyre, J., concurred.

Appellant's petition for review by the Supreme Court was denied September 3, 1997.

Footnotes

1 All further statutory references are to the Health and Safety Code unless otherwise noted.

2 " 'Subvention' generally means a grant of financial aid or assistance, or a subsidy. [Citation.]" (*Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577 [15 Cal.Rptr.2d 547].)

3 In our prior opinion issued in this case, we determined the trial court erred when it denied the California Department of Finance (DOF) leave to intervene as an indispensable party and a real party in interest

in the mandamus proceeding. (*Redevelopment Agency v. Commission on State Mandates* (1996) 43 Cal.App.4th 1188, 1194-1199 [51 Cal.Rptr.2d 100].) Thus, DOF is now a respondent on this appeal, as is the Commission (sometimes collectively referred to as respondents). However, our decision in that case was a collateral matter and does not assist us on the merits of this proceeding.

4 Section 6 lists the following exclusions to the requirement for subvention of funds: "(a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." In *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 69 [266 Cal.Rptr. 139, 785 P.2d 522], the Supreme Court identified these items as exclusions of otherwise reimbursable programs from the scope of section 6. (See also Gov. Code, § 17514, definition of "costs mandated by the state," using the same "new program or higher level of service" language of section 6.)

5 Section 33071 in the Community Redevelopment Law provides that a fundamental purpose of redevelopment is to expand the supply of lowand moderate-income housing, as well as expanding employment opportunities and improving the social environment.

6 The term of art, "proceeds of taxes," is defined in article XIII B, section 8, as follows: (c) " *'Proceeds of taxes' shall include, but not be restricted to, all tax revenues* and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, 'proceeds of taxes' shall include subventions received from the state, other than pursuant to Section 6, and, with respect to the state, proceeds of taxes shall exclude such subventions." (Italics added.)

7 The issues before the court in *County of Placer v. Corin*, *supra*, 113 Cal.App.3d 443 were whether special assessments and federal grants should be considered proceeds of taxes; the court held they should not. Section 6 is not discussed; the court's analysis of other concepts found in article XIII B is nevertheless instructive.

8 The alternate grounds of the Commission's decision were that there were no costs subject to reimbursement related to the Housing Fund because there was no net increase in the aggregate program responsibilities of the Agency, and that the set-aside requirement did not constitute a mandated "new program or higher level of service" under this section.

9 The term of art, "appropriations subject to limitation," is defined in article XIII B, section 8, as follows: [¶] (b) " 'Appropriations subject to limitation' of an entity of local government means any authorization to expend during a fiscal year *the proceeds of taxes levied by or for that entity* and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes." (Italics added.)

10 We disagree with respondents that the legislative history of sections 33334.2 and 33334.3 is of assistance here, specifically, that section 23 of the bill creating these sections provided that no appropriations were made by the act, nor was any obligation for reimbursements of local agencies created for any costs incurred in carrying out the programs created by the act. (Stats. 1976, ch. 1337, § 23, pp. 6070-6071.) As stated in *City of San Jose v. State of California*, *supra*, 45 Cal.App.4th at pages 1817-1818, legislative findings regarding mandate are irrelevant to the issue to be decided by the Commission, whether a state mandate exists.

64 Cal.Rptr.2d 270, 97 Cal. Daily Op. Serv. 4510, 97 Daily Journal D.A.R. 7464

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54 Cal.3d 326, 814 P.2d 1308, 285 Cal.Rptr. 66
Supreme Court of California

FRANCES KINLAW et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA et al., Defendants and Respondents.

No. S014349.
Aug 30, 1991.

SUMMARY

Medically indigent adults and taxpayers brought an action pursuant to Code Civ. Proc., § 526a, against the state, alleging that it had violated Cal. Const., art. XIII B, § 6 (reimbursement of local governments for state-mandated new programs), by shifting its financial responsibility for the funding of health care for the poor onto the county without providing the necessary funding, and that as a result the state had evaded its constitutionally mandated spending limits. The trial court granted summary judgment for the State after concluding plaintiffs lacked standing to prosecute the action. (Superior Court of Alameda County, No. 632120-4, Henry Ramsey, Jr., and Demetrios P. Agretelis, Judges.) The Court of Appeal, First Dist., Div. Two, Nos. A041426 and A043500, reversed.

The Supreme Court reversed the judgment of the Court of Appeal, holding the administrative procedures established by the Legislature (Gov. Code, § 17500 et seq.), which are available only to local agencies and school districts directly affected by a state mandate, were the exclusive means by which the state's obligations under Cal. Const., art. XIII B, § 6, were to be determined and enforced. Accordingly, the court held plaintiffs lacked standing to prosecute the action. (Opinion by Baxter, J., with Lucas, C. J., Panelli, Kennard, and Arabian, JJ., concurring. Separate dissenting opinion by Broussard, J., with Mosk, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 7--Actions--State-mandated Costs--Reimbursement-- Exclusive Statutory Remedy.
Gov. Code, § 17500 et seq., creates an administrative forum for resolution of state mandate claims arising under Cal. Const., art. XIII B, § 6, and establishes ***327** procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid. It also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid (Gov. Code, § 17612). In view of the comprehensive nature of the legislative scheme, and from the expressed intent, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce Cal. Const., art. XIII B, § 6.

(2)
State of California § 7--Actions--State-mandated Costs--Reimbursement-- Private Action to Enforce--Standing.
In an action by medically indigent adults and taxpayers seeking to enforce Cal. Const., art. XIII B, § 6, for declaratory and injunctive relief requiring the state to reimburse the county for the cost of providing health care services to medically indigent adults who, prior to 1983, had been included in the state Medi-Cal program, the Court of Appeal erred in holding that the existence of an administrative remedy (Gov. Code, § 17500 et seq.) by which affected local agencies could enforce their constitutional right under art. XIII B, § 6 to reimbursement for the cost of state mandates di not bar the action. Because the right involved was given by the Constitution to local agencies and school districts, not individuals either as taxpayers or recipients of government benefits and services, the administrative remedy was adequate fully to implement the constitutional provision. The Legislature has the authority to establish procedures for the implementation of local agency rights under art. XIII B, § 6; unless the exercise of a constitutional right is unduly restricted, a court must limit enforcement to the procedures established by the Legislature. Plaintiffs' interest, although pressing, was indirect and did not differ from the interest of the public at large in the financial plight of local government. Relief by way of reinstatement to Medi-Cal pending further

action by the state was not a remedy available under the statute, and thus was not one which a court may award.

[See **Cal.Jur.3d,** State of California, § 78; 7 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 1127 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 112.]

COUNSEL

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John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, Richard M. Frank, Asher Rubin and Carol Hunter, Deputy Attorneys General, for Defendants and Respondents.

BAXTER, J.

Plaintiffs, medically indigent adults and taxpayers, seek to enforce section 6 of article XIII B (hereafter, section 6) of the California Constitution through an action for declaratory and injunctive relief. They invoked the jurisdiction of the superior court as taxpayers pursuant to Code of Civil Procedure section 526a and as persons affected by the alleged failure of the state to comply with section 6. The superior court granted summary judgment for defendants State of California and Director of the Department of Health Services, after concluding that plaintiffs lacked standing to prosecute the action. On appeal, the Court of Appeal held that plaintiffs have standing and that the action is not barred by the availability of administrative remedies.

We reverse. The administrative procedures established by the Legislature, which are available only to local agencies and school districts directly affected by a state mandate, are the exclusive means by which the state's obligations under section 6 are to be determined and enforced. Plaintiffs therefore lack standing.

I State Mandates

Section 6, adopted on November 6, 1979, as part of an initiative measure imposing spending limits on state and local government, also imposes on the state an obligation to reimburse local agencies for the cost of most programs and services which they must provide pursuant to a state mandate if the local agencies were not under a preexisting duty to fund the activity. It provides: ***329**

"Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

"(a) Legislative mandates requested by the local agency affected;

"(b) Legislation defining a new crime or changing an existing definition of a crime; or

"(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

A complementary provision, section 3 of article XIII B, provides for a shift from the state to the local agency of a portion of the spending or "appropriation" limit of the state when responsibility for funding an activity is shifted to a local agency:

"The appropriations limit for any fiscal year ... shall be adjusted as follows: [¶] (a) In the event that the financial responsibility of providing services is transferred, in whole or in part, ... from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount."

II Plaintiffs' Action

The underlying issue in this action is whether the state is obligated to reimburse the County of Alameda, and shift to Alameda County a concomitant portion of the state's spending limit, for the cost of providing health care services

to medically indigent adults who prior to 1983 had been included in the state Medi-Cal program. Assembly Bill No. 799 (1981-1982 Reg. Sess.) (AB 799) (Stats. 1982, ch. 328, p. 1568) removed medically indigent adults from Medi-Cal effective January 1, 1983. At the time section 6 was adopted, the state was funding Medi-Cal coverage for these persons without requiring any county financial contribution.

Plaintiffs initiated this action in the Alameda County Superior Court. They sought relief on their own behalf and on behalf of a class of similarly ***330** situated medically indigent adult residents of Alameda County. The only named defendants were the State of California, the Director of the Department of Health Services, and the County of Alameda.

In the complaint for declaratory and injunctive relief, plaintiffs sought an injunction compelling the state to restore Medi-Cal eligibility to medically indigent adults or to reimburse the County of Alameda for the cost of providing health care to those persons. They also prayed for a declaration that the transfer of responsibility from the state-financed Medi- Cal program to the counties without adequate reimbursement violated the California Constitution. [1]

At the time plaintiffs initiated their action neither Alameda County, nor any other county or local agency, had filed a reimbursement claim with the Commission on State Mandates (Commission). [2]

Whether viewed as an action seeking restoration of Medi-Cal benefits, one to compel state reimbursement of county costs, or one for declaratory relief, therefore, the action required a determination that the enactment of AB 799 created a state mandate within the contemplation of section 6. Only upon resolution of that issue favorably to plaintiffs would the state have an obligation to reimburse the county for its increased expense and shift a portion of its appropriation limit, or to reinstate Medi-Cal benefits for plaintiffs and the class they seek to represent.

The gravamen of the action is, therefore, enforcement of section 6. [3] ***331**

III Enforcement of Article XIII B, Section 6

In 1984, almost five years after the adoption of article XIII B, the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6. (§ 17500.) The Legislature did so because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process. The necessity for the legislation was explained in section 17500:

"The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state- mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, *it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.*" (Italics added.)

In part 7 of division 4 of title 2 of the Government Code, "State-Mandated Costs," which commences with section 17500, the Legislature created the Commission (§ 17525), to adjudicate disputes over the existence of a state-mandated program (§§ 17551, 17557) and to adopt procedures for submission and adjudication of reimbursement claims (§ 17553). The five-member Commission includes the Controller, the Treasurer, the Director of Finance, the Director of the Office of Planning and Research, and a public member experienced in public finance. (§ 17525.)

The legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies (§ 17554), [4] establishes the method of ***332** payment of claims (§§ 17558, 17561), and creates reporting procedures which enable the Legislature to budget adequate funds to meet the expense of state mandates (§§ 17562, 17600, 17612, subd. (a).)

Pursuant to procedures which the Commission was authorized to establish (§ 17553), local agencies [5] and school districts [6] are to file claims for reimbursement of state-mandated costs with the Commission (§§ 17551, 17560), and reimbursement is to be provided only through this statutory procedure. (§§ 17550, 17552.)

The first reimbursement claim filed which alleges that a state mandate has been created under a statute or executive order is treated as a "test claim." (§ 17521.) A public hearing must be held promptly on any test claim. At the hearing on a test claim or on any other reimbursement claim, evidence may be presented not only by the claimant, but also by the Department of Finance and any other department or agency potentially affected by the claim. (§ 17553.) Any interested organization or individual may participate in the hearing. (§ 17555.)

A local agency filing a test claim need not first expend sums to comply with the alleged state mandate, but may base its claim on estimated costs. (§ 17555.) The Commission must determine both whether a state mandate exists and, if so, the amount to be reimbursed to local agencies and school districts, adopting "parameters and guidelines" for reimbursement of any claims relating to that statute or executive order. (§ 17557.) Procedures for determining whether local agencies have achieved statutorily authorized cost savings and for offsetting these savings against reimbursements are also provided. (§ 17620 et seq.) Finally, judicial review of the Commission decision is available through petition for writ of mandate filed pursuant to Code of Civil Procedure section 1094.5. (§ 17559.)

The legislative scheme is not limited to establishing the claims procedure, however. It also contemplates reporting to the Legislature and to departments and agencies of the state which have responsibilities related to funding state mandates, budget planning, and payment. The parameters and guidelines adopted by the Commission must be submitted to the Controller, who is to pay subsequent claims arising out of the mandate. (§ 17558.) Executive orders mandating costs are to be accompanied by an appropriations ***333** bill to cover the costs if the costs are not included in the budget bill, and in subsequent years the costs must be included in the budget bill. (§ 17561, subds. (a) & (b).) Regular review of the costs is to be made by the Legislative Analyst, who must report to the Legislature and recommend whether the mandate should be continued. (§ 17562.) The Commission is also required to make semiannual reports to the Legislature of the number of mandates found and the estimated reimbursement cost to the state. (§ 17600.) The Legislature must then adopt a "local government claims bill." If that bill does not include funding for a state mandate, an affected local agency or school district may seek a declaration from the superior court for the County of Sacramento that the mandate is unenforceable, and an injunction against enforcement. (§ 17612.)

Additional procedures, enacted in 1985, create a system of state-mandate apportionments to fund reimbursement. (§ 17615 et seq.)

(1) It is apparent from the comprehensive nature of this legislative scheme, and from the Legislature's expressed intent, that the exclusive remedy for a claimed violation of section 6 lies in these procedures. The statutes create an administrative forum for resolution of state mandate claims, and establishes procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid (§ 17612).

The legislative intent is clearly stated in section 17500: "It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution. ..." And section 17550 states: "Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter."

Finally, section 17552 provides: "This chapter shall provide *the sole and exclusive procedure* by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." (Italics added.)

In short, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce section 6. ***334**

IV Exclusivity

(2) Plaintiffs argued, and the Court of Appeal agreed, that the existence of an administrative remedy by which affected local agencies could enforce their right under section 6 to reimbursement for the cost of state mandates did not bar this action because the administrative remedy is available only to local agencies and school districts.

The Court of Appeal recognized that the decision of the County of Alameda, which had not filed a claim for reimbursement at the time the complaint was filed, was a discretionary decision which plaintiffs could not challenge.

(*Dunn v. Long Beach L. & W. Co.* (1896) 114 Cal. 605, 609, 610-611 [46 P. 607]; *Silver v. Watson* (1972) 26 Cal.App.3d 905, 909 [103 Cal.Rptr. 576]; *Whitson v. City of Long Beach* (1962) 200 Cal.App.2d 486, 506 [19 Cal.Rptr. 668]; *Elliott v. Superior Court* (1960) 180 Cal.App.2d 894, 897 [5 Cal.Rptr. 116].) The court concluded, however, that public policy and practical necessity required that plaintiffs have a remedy for enforcement of section 6 independent of the statutory procedure.

The right involved, however, is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services. Section 6 provides that the "state shall provide a subvention of funds *to reimburse ... local governments* ...." (Italics added.) The administrative remedy created by the Legislature is adequate to fully implement section 6. That Alameda County did not file a reimbursement claim does not establish that the enforcement remedy is inadequate. Any of the 58 counties was free to file a claim, and other counties did so. The test claim is now before the Court of Appeal. The administrative procedure has operated as intended.

The Legislature has the authority to establish procedures for the implementation of local agency rights under section 6. Unless the exercise of a constitutional right is unduly restricted, the court must limit enforcement to the procedures established by the Legislature. (*People v. Western Air Lines, Inc.* (1954) 42 Cal.2d 621, 637 [268 P.2d 723]; *Chesney v. Byram* (1940) 15 Cal.2d 460, 463 [101 P.2d 1106]; *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750].)

Plaintiffs' argument that they must be permitted to enforce section 6 as individuals because their right to adequate health care services has been compromised by the failure of the state to reimburse the county for the cost ***335** of services to medically indigent adults is unpersuasive. Plaintiffs' interest, although pressing, is indirect and does not differ from the interest of the public at large in the financial plight of local government. Although the basis for the claim that the state must reimburse the county for its costs of providing the care that was formerly available to plaintiffs under Medi-Cal is that AB 799 created a state mandate, plaintiffs have no right to have any reimbursement expended for health care services of any kind. Nothing in article XIII B or other provision of law controls the county's expenditure of the funds plaintiffs claim must be paid to the county. To the contrary, section 17563 gives the local agency complete discretion in the expenditure of funds received pursuant to section 6, providing: "Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose."

The relief plaintiffs seek in their prayer for state reimbursement of county expenses is, in the end, a reallocation of general revenues between the state and the county. Neither public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to such revenues. The Legislature has established a procedure by which the county may claim any revenues to which it believes it is entitled under section 6. That test-claim statute expressly provides that not only the claimant, but also "any other interested organization or individual may participate" in the hearing before the Commission (§ 17555) at which the right to reimbursement of the costs of such mandate is to be determined. Procedures for receiving any claims must "provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, *and any other interested person.*" (§ 17553. Italics added.) Neither the county nor an interested individual is without an opportunity to be heard on these questions. These procedures are both adequate and exclusive. [7]

The alternative relief plaintiffs seek—reinstatement to Medi-Cal pending further action by the state—is not a remedy available under the statute, and thus is not one which this court may award. The remedy for the failure to fund a program is a declaration that the mandate is unenforceable. That relief is available only after the Commission has determined that a mandate exists ***336** and the Legislature has failed to include the cost in a local government claims bill, and only on petition by the county. (§ 17612.) [8]

Moreover, the judicial remedy approved by the Court of Appeal permits resolution of the issues raised in a state mandate claim without the participation of those officers and individuals the Legislature deems necessary to a full and fair exposition and resolution of the issues. Neither the Controller nor the Director of Finance was named a defendant in this action. The Treasurer and the Director of the Office of Planning and Research did not participate. All of these officers would have been involved in determining the

question as members of the Commission, as would the public member of the Commission. The judicial procedures were not equivalent to the public hearing required on test claims before the Commission by section 17555. Therefore, other affected departments, organizations, and individuals had no opportunity to be heard. [9]

Finally, since a determination that a state mandate has been created in a judicial proceeding rather than one before the Commission does not trigger the procedures for creating parameters and guidelines for payment of claims, or for inclusion of estimated costs in the state budget, there is no source of funds available for compliance with the judicial decision other than the appropriations for the Department of Health Services. Payment from those funds can only be at the expense of another program which the department is obligated to fund. No public policy supports, let alone requires, this result.

The superior court acted properly in dismissing this action.

The judgment of the Court of Appeal is reversed.

Lucas, C. J., Panelli, J., Kennard, J., and Arabian, J., concurred.

BROUSSARD, J.

I dissent. For nine years the Legislature has defied the mandate of article XIII B of the California Constitution (hereafter article XIII B). Having transferred responsibility for the care of medically indigent adults (MIA's) to county governments, the Legislature has failed to provide the counties with sufficient money to meet this responsibility, yet the ***337** Legislature computes its own appropriations limit as if it fully funded the program. The majority, however, declines to remedy this violation because, it says, the persons most directly harmed by the violation—the medically indigent who are denied adequate health care—have no standing to raise the matter. I disagree, and will demonstrate that (1) plaintiffs have standing as citizens to seek a declaratory judgment to determine whether the state is complying with its constitutional duty under article XIII B; (2) the creation of an administrative remedy whereby counties and local districts can enforce article XIII B does not deprive the citizenry of its own independent right to enforce that provision; and (3) even if plaintiffs lacked standing, our recent decision in *Dix v. Superior Court* (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063] permits us to reach and resolve any significant issue decided by the Court of Appeal and fully briefed and argued here. I conclude that we should reach the merits of the appeal.

On the merits, I conclude that the state has not complied with its constitutional obligation under article XIII B. To prevent the state from avoiding the spending limits imposed by article XIII B, section 6 of that article prohibits the state from transferring previously state-financed programs to local governments without providing sufficient funds to meet those burdens. In 1982, however, the state excluded the medically indigent from its Medi-Cal program, thus shifting the responsibility for such care to the counties. Subvention funds provided by the state were inadequate to reimburse the counties for this responsibility, and became less adequate every year. At the same time, the state continued to compute its spending limit as if it fully financed the entire program. The result is exactly what article XIII B was intended to prevent: the state enjoys a falsely inflated spending limit; the county is compelled to assume a burden it cannot afford; and the medically indigent receive inadequate health care.

I. Facts and Procedural History

Plaintiffs—citizens, taxpayers, and persons in need of medical care—allege that the state has shifted its financial responsibility for the funding of health care for MIA's to the counties without providing the necessary funding and without any agreement transferring appropriation limits, and that as a result the state is violating article XIII B. Plaintiffs further allege they and the class they claim to represent cannot, consequently, obtain adequate health care from the County of Alameda, which lacks the state funding to provide it. The county, although nominally a defendant, aligned ***338** itself with plaintiffs. It admits the inadequacy of its program to provide medical care for MIA's but blames the absence of state subvention funds. [1]

At hearings below, plaintiffs presented uncontradicted evidence regarding the enormous impact of these statutory changes upon the finances and population of Alameda County. That county now spends about $40 million annually on health care for MIA's, of which the state reimburses about half. Thus, since article XIII B became effective, Alameda County's obligation for the health care of MIA's has risen from zero to more than $20 million per year. The county has inadequate funds to discharge its new obligation

for the health care of MIA's; as a result, according to the Court of Appeal, uncontested evidence from medical experts presented below shows that, "The delivery of health care to the indigent in Alameda County is in a state of shambles; the crisis cannot be overstated ...." "Because of inadequate state funding, some Alameda County residents are dying, and many others are suffering serious diseases and disabilities, because they cannot obtain adequate access to the medical care they need ...." "The system is clogged to the breaking point. ... All community clinics ... are turning away patients." "The funding received by the county from the state for MIAs does not approach the actual cost of providing health care to the MIAs. As a consequence, inadequate resources available to county health services jeopardize the lives and health of thousands of people ...."

The trial court acknowledged that plaintiffs had shown irreparable injury, but denied their request for a preliminary injunction on the ground that they could not prevail in the action. It then granted the state's motion for summary judgment. Plaintiffs appealed from both decisions of the trial court.

The Court of Appeal consolidated the two appeals and reversed the rulings below. It concluded that plaintiffs had standing to bring this action to enforce the constitutional spending limit of article XIII B, and that the action is not barred by the existence of administrative remedies available to counties. It then held that the shift of a portion of the cost of medical indigent care by the state to Alameda County constituted a state-mandated new program under the provisions of article XIII B, which triggered that article's provisions requiring a subvention of funds by the state to reimburse Alameda ***339** County for the costs of such program it was required to assume. The judgments denying a preliminary injunction and granting summary judgment for defendants were reversed. We granted review.

II. Standing

A. *Plaintiffs have standing to bring an action for declaratory relief to determine whether the state is complying with article XIII B.*

Plaintiffs first claim standing as taxpayers under Code of Civil Procedure section 526a, which provides that: "An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a county ..., may be maintained against any officer thereof, or any agent, or other person, acting in its behalf, either by a citizen resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax therein. ..." As in *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 439 [261 Cal.Rptr. 574, 777 P.2d 610], however, it is "unnecessary to reach the question whether plaintiffs have standing to seek an injunction under Code of Civil Procedure section 526a, because there is an independent basis for permitting them to proceed." Plaintiffs here seek a declaratory judgment that the transfer of responsibility for MIA's from the state to the counties without adequate reimbursement violates article XIII B. A declaratory judgment that the state has breached its duty is essentially equivalent to an action in mandate to compel the state to perform its duty. (See *California Assn. of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, 9 [270 Cal.Rptr. 796, 793 P.2d 2], which said that a declaratory judgment establishing that the state has a duty to act provides relief equivalent to mandamus, and makes issuance of the writ unnecessary.) Plaintiffs further seek a mandatory injunction requiring that the state pay the health costs of MIA's under the Medi-Cal program until the state meets its obligations under article XIII B. The majority similarly characterize plaintiffs' action as one comparable to mandamus brought to enforce section 6 of article XIII B.

We should therefore look for guidance to cases that discuss the standing of a party seeking a writ of mandate to compel a public official to perform his or her duty.[2] Such an action may be brought by any person "beneficially interested" in the issuance of the writ. (Code Civ. Proc., § 1086.) In *Carsten* ***340** *v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 796 [166 Cal.Rptr. 844, 614 P.2d 276], we explained that the "requirement that a petitioner be 'beneficially interested' has been generally interpreted to mean that one may obtain the writ only if the person has some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large." We quoted from Professor Davis, who said, "One who is in fact adversely affected by governmental action should have standing to challenge that action if it is judicially reviewable." (Pp. 796-797, quoting 3 Davis, Administrative Law Treatise (1958) p. 291.) Cases applying this standard include *Stocks v. City of Irvine* (1981) 114 Cal.App.3d 520

[170 Cal.Rptr. 724], which held that low- income residents of Los Angeles had standing to challenge exclusionary zoning laws of suburban communities which prevented the plaintiffs from moving there; *Taschner v. City Council, supra,* 31 Cal.App.3d 48, which held that a property owner has standing to challenge an ordinance which may limit development of the owner's property; and *Felt v. Waughop* (1924) 193 Cal. 498 [225 P. 862], which held that a city voter has standing to compel the city clerk to certify a correct list of candidates for municipal office. Other cases illustrate the limitation on standing: *Carsten v. Psychology Examining Com., supra,* 27 Cal.3d 793, held that a member of the committee who was neither seeking a license nor in danger of losing one had no standing to challenge a change in the method of computing the passing score on the licensing examination; *Parker v. Bowron* (1953) 40 Cal.2d 344 [254 P.2d 6] held that a union official who was neither a city employee nor a city resident had no standing to compel a city to follow a prevailing wage ordinance; and *Dunbar v. Governing Board* (1969) 275 Cal.App.2d 14 [79 Cal.Rptr. 662] held that a member of a student organization had standing to challenge a college district's rule barring a speaker from campus, but persons who merely planned to hear him speak did not.

No one questions that plaintiffs are affected by the lack of funds to provide care for MIA's. Plaintiffs, except for plaintiff Rabinowitz, are not merely citizens and taxpayers; they are medically indigent persons living in Alameda County who have been and will be deprived of proper medical care if funding of MIA programs is inadequate. Like the other plaintiffs here, ***341** plaintiff Kinlaw, a 60-year-old woman with diabetes and hypertension, has no health insurance. Plaintiff Spier has a chronic back condition; inadequate funding has prevented him from obtaining necessary diagnostic procedures and physiotherapy. Plaintiff Tsosie requires medication for allergies and arthritis, and claims that because of inadequate funding she cannot obtain proper treatment. Plaintiff King, an epileptic, says she was unable to obtain medication from county clinics, suffered seizures, and had to go to a hospital. Plaintiff "Doe" asserts that when he tried to obtain treatment for AIDS-related symptoms, he had to wait four to five hours for an appointment and each time was seen by a different doctor. All of these are people personally dependent upon the quality of care of Alameda County's MIA program; most have experienced inadequate care because the program was underfunded, and all can anticipate future deficiencies in care if the state continues its refusal to fund the program fully.

The majority, however, argues that the county has no duty to use additional subvention funds for the care of MIA's because under Government Code section 17563 "[a]ny funds received by a local agency ... pursuant to the provisions of this chapter may be used for any public purpose." Since the county may use the funds for other purposes, it concludes that MIA's have no special interest in the subvention. [3]

This argument would be sound if the county were already meeting its obligations to MIA's under Welfare and Institutions Code section 17000. If that were the case, the county could use the subvention funds as it chose, and plaintiffs would have no more interest in the matter than any other county resident or taxpayer. But such is not the case at bar. Plaintiffs here allege that the county is not complying with its duty, mandated by Welfare and Institutions Code section 17000, to provide health care for the medically indigent; the county admits its failure but pleads lack of funds. Once the county receives adequate funds, it must perform its statutory duty under section 17000 of the Welfare and Institutions Code. If it refused, an action in mandamus would lie to compel performance. (See *Mooney v. Pickett* (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231].) In fact, the county has made clear throughout this litigation that it would use the subvention funds to provide care for MIA's. The majority's conclusion that plaintiffs lack a special, beneficial interest in the state's compliance with article XIII B ignores the practical realities of health care funding.

Moreover, we have recognized an exception to the rule that a plaintiff must be beneficially interested. "Where the question is one of public right ***342** and the object of the mandamus is to procure the enforcement of a public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced." (*Bd. of Soc. Welfare v. County of L. A.* (1945) 27 Cal.2d 98, 100-101 [162 P.2d 627].) We explained in *Green v. Obledo* (1981) 29 Cal.3d 126, 144 [172 Cal.Rptr. 206, 624 P.2d 256], that this "exception promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right. ... It has often been invoked by California courts. [Citations.]"

Green v. Obledo presents a close analogy to the present case. Plaintiffs there filed suit to challenge whether a state welfare regulation limiting deductibility of work-related expenses in determining eligibility for aid to families with dependent children (AFDC) assistance complied with federal requirements. Defendants claimed that plaintiffs were personally affected only by a portion of the regulation, and had no standing to challenge the balance of the regulation. We replied that "[t]here can be no question that the proper calculation of AFDC benefits is a matter of public right [citation], and plaintiffs herein are certainly citizens seeking to procure the enforcement of a public duty. [Citation.] It follows that plaintiffs have standing to seek a writ of mandate commanding defendants to cease enforcing [the regulation] in its entirety." (29 Cal.3d at p. 145.)

We again invoked the exception to the requirement for a beneficial interest in *Common Cause v. Board of Supervisors, supra,* 49 Cal.3d 432. Plaintiffs in that case sought to compel the county to deputize employees to register voters. We quoted *Green v. Obledo, supra,* 29 Cal.3d 126, 144, and concluded that "[t]he question in this case involves a public right to voter outreach programs, and plaintiffs have standing as citizens to seek its vindication." (49 Cal.3d at p. 439.) We should reach the same conclusion here.

B. *Government Code sections 17500-17630 do not create an exclusive remedy which bars citizen-plaintiffs from enforcing article XIII B.*

Four years after the enactment of article XIII B, the Legislature enacted Government Code sections 17500 through 17630 to implement article XIII B, section 6. These statutes create a quasi-judicial body called the Commission on State Mandates, consisting of the state Controller, state Treasurer, state Director of Finance, state Director of the Office of Planning and Research, and one public member. The commission has authority to "hear and decide upon [any] claim" by a local government that it "is entitled to be reimbursed by the state" for costs under article XIII B. (***343** Gov. Code, § 17551, subd. (a).) Its decisions are subject to review by an action for administrative mandamus in the superior court. (See Gov. Code, § 17559.)

The majority maintains that a proceeding before the Commission on State Mandates is the exclusive means for enforcement of article XIII B, and since that remedy is expressly limited to claims by local agencies or school districts (Gov. Code, § 17552), plaintiffs lack standing to enforce the constitutional provision.[4] I disagree, for two reasons.

First, Government Code section 17552 expressly addressed the question of exclusivity of remedy, and provided that "[t]his chapter shall provide the sole and exclusive procedure by which *a local agency or school district* may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." (Italics added.) The Legislature was aware that local agencies and school districts were not the only parties concerned with state mandates, for in Government Code section 17555 it provided that "any other interested organization or individual may participate" in the commission hearing. Under these circumstances the Legislature's choice of words—"the sole and exclusive procedure by which a local agency or school district may claim reimbursement"—limits the procedural rights of those claimants only, and does not affect rights of other persons. *Expressio unius est exclusio alterius*—"the expression of certain things in a statute necessarily involves exclusion of other things not expressed." (*Henderson v. Mann Theatres Corp.* (1976) 65 Cal.App.3d 397, 403 [135 Cal.Rptr. 266].)

The case is similar in this respect to *Common Cause v. Board of Supervisors, supra,* 49 Cal.3d 432. Here defendants contend that the counties' right of action under Government Code sections 17551-17552 impliedly excludes ***344** any citizen's remedy; in *Common Cause* defendants claimed the Attorney General's right of action under Elections Code section 304 impliedly excluded any citizen's remedy. We replied that "the plain language of section 304 contains no limitation on the right of private citizens to sue to enforce the section. To infer such a limitation would contradict our long-standing approval of citizen actions to require governmental officials to follow the law, expressed in our expansive interpretation of taxpayer standing [citations], and our recognition of a 'public interest' exception to the requirement that a petitioner for writ of mandate have a personal beneficial interest in the proceedings [citations]." (49 Cal.3d at p. 440, fn. omitted.) Likewise in this case the plain language of Government Code sections 17551-17552 contain no limitation on the right of private citizens, and to infer such a

right would contradict our long-standing approval of citizen actions to enforce public duties.

The United States Supreme Court reached a similar conclusion in *Rosado v. Wyman* (1970) 397 U.S. 397 [25 L.Ed.2d 442, 90 S.Ct. 1207]. In that case New York welfare recipients sought a ruling that New York had violated federal law by failing to make cost-of-living adjustments to welfare grants. The state replied that the statute giving the Department of Health, Education and Welfare authority to cut off federal funds to noncomplying states constituted an exclusive remedy. The court rejected the contention, saying that "[w]e are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program." (P. 420 [25 L.Ed.2d at p. 460].) The principle is clear: the persons actually harmed by illegal state action, not only some administrator who has no personal stake in the matter, should have standing to challenge that action.

Second, article XIII B was enacted to protect taxpayers, not governments. Sections 1 and 2 of article XIII B establish strict limits on state and local expenditures, and require the refund of all taxes collected in excess of those limits. Section 6 of article XIII B prevents the state from evading those limits and burdening county taxpayers by transferring financial responsibility for a program to a county, yet counting the cost of that program toward the limit on state expenditures.

These provisions demonstrate a profound distrust of government and a disdain for excessive government spending. An exclusive remedy under which only governments can enforce article XIII B, and the taxpayer-citizen can appear only if a government has first instituted proceedings, is inconsistent with the ethos that led to article XIII B. The drafters of article XIII B and the voters who enacted it would not accept that the state Legislature—the principal body regulated by the article—could establish a procedure ***345** under which the only way the article can be enforced is for local governmental bodies to initiate proceedings before a commission composed largely of state financial officials.

One obvious reason is that in the never-ending attempts of state and local government to obtain a larger proportionate share of available tax revenues, the state has the power to coerce local governments into foregoing their rights to enforce article XIII B. An example is the Brown-Presley Trial Court Funding Act (Gov. Code, § 77000 et seq.), which provides that the county's acceptance of funds for court financing may, in the discretion of the Governor, be deemed a waiver of the counties' rights to proceed before the commission on all claims for reimbursement for state-mandated local programs which existed and were not filed prior to passage of the trial funding legislation.[5] The ability of state government by financial threat or inducement to persuade counties to waive their right of action before the commission renders the counties' right of action inadequate to protect the public interest in the enforcement of article XIII B.

The facts of the present litigation also demonstrate the inadequacy of the commission remedy. The state began transferring financial responsibility for MIA's to the counties in 1982. Six years later no county had brought a proceeding before the commission. After the present suit was filed, two counties filed claims for 70 percent reimbursement. Now, nine years after the 1982 legislation, the counties' claims are pending before the Court of Appeal. After that court acts, and we decide whether to review its decision, the matter may still have to go back to the commission for hearings to ***346** determine the amount of the mandate—which is itself an appealable order. When an issue involves the life and health of thousands, a procedure which permits this kind of delay is not an adequate remedy.

In sum, effective, efficient enforcement of article XIII B requires that standing to enforce that measure be given to those harmed by its violation—in this case, the medically indigent—and not be vested exclusively in local officials who have no personal interest at stake and are subject to financial and political pressure to overlook violations.

C. *Even if plaintiffs lack standing this court should nevertheless address and resolve the merits of the appeal.*

Although ordinarily a court will not decide the merits of a controversy if the plaintiffs lack standing (see *McKinny v. Board of Trustees* (1982) 31 Cal.3d 79, 90 [181 Cal.Rptr. 549, 642 P.2d 460]), we recognized an exception to this rule in our recent decision in *Dix v. Superior Court, supra,* 53 Cal.3d 442 (hereafter *Dix*). In *Dix,* the victim of a crime sought to challenge the trial court's decision to recall a sentence under Penal Code section 1170. We held that only the prosecutor, not the victim of the crime, had standing to raise that issue. We nevertheless went on to consider and decide questions raised by the victim concerning

the trial court's authority to recall a sentence under Penal Code section 1170, subdivision (d). We explained that the sentencing issues "are significant. The case is fully briefed and all parties apparently seek a decision on the merits. Under such circumstances, we deem it appropriate to address [the victim's] sentencing arguments for the guidance of the lower courts. Our discretion to do so under analogous circumstances is well settled. [Citing cases explaining when an appellate court can decide an issue despite mootness.]" (53 Cal.3d at p. 454.) In footnote we added that "Under article VI, section 12, subdivision (b) of the California Constitution ..., we have jurisdiction to 'review the *decision of a Court of Appeal* in any cause.' (Italics added.) Here the Court of Appeal's decision addressed two issues—standing and merits. Nothing in article VI, section 12(b) suggests that, having rejected the Court of Appeal's conclusion on the preliminary issue of standing, we are foreclosed from 'review [ing]' the second subject addressed and resolved in its decision." (Pp. 454-455, fn. 8.)

I see no grounds on which to distinguish *Dix.* The present case is also one in which the Court of Appeal decision addressed both standing and merits. It is fully briefed. Plaintiffs and the county seek a decision on the merits. While the state does not seek a decision on the merits in this proceeding, its appeal of the superior court decision in the mandamus proceeding brought by the County of Los Angeles (see maj. opn., *ante,* p. 330, fn. 2*ante,* p. 330, fn. 2) shows that it is not opposed to an appellate decision on the merits. ***347**

The majority, however, notes that various state officials—the Controller, the Director of Finance, the Treasurer, and the Director of the Office of Planning and Research—did not participate in this litigation. Then in a footnote, the majority suggests that this is the reason they do not follow the *Dix* decision. (Maj. opn., *ante,* p. 336, fn. 9*ante,* p. 336, fn. 9.) In my view, this explanation is insufficient. The present action is one for declaratory relief against the state. It is not necessary that plaintiffs also sue particular state officials. (The state has never claimed that such officials were necessary parties.) I do not believe we should refuse to reach the merits of this appeal because of the nonparticipation of persons who, if they sought to participate, would be here merely as amici curiae. [6]

The case before us raises no issues of departmental policy. It presents solely an issue of law which this court is competent to decide on the briefs and arguments presented. That issue is one of great significance, far more significant than any raised in *Dix.* Judges rarely recall sentencing under Penal Code section 1170, subdivision (d); when they do, it generally affects only the individual defendant. In contrast, the legal issue here involves immense sums of money and affect budgetary planning for both the state and counties. State and county governments need to know, as soon as possible, what their rights and obligations are; legislators considering proposals to deal with the current state and county budget crisis need to know how to frame legislation so it does not violate article XIII B. The practical impact of a decision on the people of this state is also of great importance. The failure of the state to provide full subvention funds and the difficulty of the county in filling the gap translate into inadequate staffing and facilities for treatment of thousands of persons. Until the constitutional issues are resolved the legal uncertainties may inhibit both levels of government from taking the steps needed to address this problem. A delay of several years until the Los Angeles case is resolved could result in pain, hardship, or even death for many people. I conclude that, whether or not plaintiffs have standing, this court should address and resolve the merits of the appeal.

D. *Conclusion as to standing.*

As I have just explained, it is not necessary for plaintiffs to have standing for us to be able to decide the merits of the appeal. Nevertheless, I conclude ***348** that plaintiffs have standing both as persons "beneficially interested" under Code of Civil Procedure section 1086 and under the doctrine of *Green v. Obledo, supra,* 29 Cal.3d 126, to bring an action to determine whether the state has violated its duties under article XIII B. The remedy given local agencies and school districts by Government Code sections 17500- 17630 is, as Government Code section 17552 states, the exclusive remedy by which those bodies can challenge the state's refusal to provide subvention funds, but the statute does not limit the remedies available to individual citizens.

III. Merits of the Appeal

A. *State funding of care for MIA's.*

Welfare and Institutions Code section 17000 requires every county to "relieve and support" all indigent or incapacitated residents, except to the extent that such persons are supported or relieved by other sources. [7] From 1971 until 1982, and thus at the time article XIII B became effective, counties were not required to pay for the provision of health services to MIA's, whose health needs were met through the state-funded Medi-Cal program. Since the medical needs of MIA's were fully

met through other sources, the counties had no duty under Welfare and Institutions Code section 17000 to meet those needs. While the counties did make general contributions to the Medi-Cal program (which covered persons other than MIA's) from 1971 until 1978, at the time article XIII B became effective in 1980 the counties were not required to make any financial contributions to Medi-Cal. It is therefore undisputed that the counties were not required to provide financially for the health needs of MIA's when article XIII B became effective. The state funded all such needs of MIA's.

In 1982, the Legislature passed Assembly Bill No. 799 (1981-1982 Reg. Sess.; Stats. 1982, ch. 328, pp. 1568-1609) (hereafter AB No. 799), which removed MIA's from the state-funded Medi-Cal program as of January 1, 1983, and thereby transferred to the counties, through the County Medical Services Plan which AB No. 799 created, the financial responsibility to provide health services to approximately 270,000 MIA's. AB No. 799 required that the counties provide health care for MIA's, yet appropriated only 70 percent of what the state would have spent on MIA's had those persons remained a state responsibility under the Medi-Cal program.

Since 1983, the state has only partially defrayed the costs to the counties of providing health care to MIA's. Such state funding to counties was ***349** initially relatively constant, generally more than $400 million per year. By 1990, however, state funding had decreased to less than $250 million. The state, however, has always included the full amount of its former obligation to provide for MIA's under the Medi-Cal program in the year preceding July 1, 1980, as part of its article XIII B "appropriations limit," i.e., as part of the base amount of appropriations on which subsequent annual adjustments for cost-of-living and population changes would be calculated. About $1 billion has been added to the state's adjusted spending limit for population growth and inflation *solely* because of the state's inclusion of all MIA expenditures in the appropriation limit established for its base year, 1979-1980. The state has not made proportional increases in the sums provided to counties to pay for the MIA services funded by the counties since January 1, 1983.

B. *The function of article XIII B.*

Our recent decision in *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487 [280 Cal.Rptr. 92, 808 P.2d 235] (hereafter *County of Fresno*), explained the function of article XIII B and its relationship to article XIII A, enacted one year earlier:

"At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new 'special taxes.' (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281].) The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522] (*City of Sacramento*).)

"At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

" 'Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend [taxes] for public purposes.' (*City of Sacramento, supra,* 50 Cal.3d at p. 59, fn. 1.)

"Article XIII B of the Constitution was intended ... to provide 'permanent protection for taxpayers from excessive taxation' and 'a reasonable way to provide discipline in tax spending at state and local levels.' (See *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232], quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument ***350** in favor of Prop. 4, p. 18.) To this end, it establishes an 'appropriations limit' for both state and local governments (Cal. Const., art. XIII B, § 8, subd. (h)) and allows no 'appropriations subject to limitation' in excess thereof (*id.,* § 2). [8] (See *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 446.) It defines the relevant 'appropriations subject to limitation' as 'any authorization to expend during a fiscal year the proceeds of taxes ....' (Cal. Const., art. XIII B, § 8, subd. (b).)" (*County of Fresno, supra,* 53 Cal.3d at p. 486.)

Under section 3 of article XIII B the state may transfer financial responsibility for a program to a county if the state

and county mutually agree that the appropriation limit of the state will be decreased and that of the county increased by the same amount.[9] Absent such an agreement, however, section 6 of article XIII B generally precludes the state from avoiding the spending limits it must observe by shifting to local governments programs and their attendant financial burdens which were a state responsibility prior to the effective date of article XIII B. It does so by requiring that "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the cost of such program or increased level of service ...."[10]

"Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles* [v. *State of California* (1987)] 43 Cal.3d 46, 61 [233 Cal.Rptr. 38, 729 P.2d 202].) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d 830, 836, fn. 6.) Specifically, it was designed to protect the tax ***351** revenues of local governments from state mandates that would require expenditure of such revenues." (*County of Fresno, supra,* 53 Cal.3d at p. 487.)

C. *Applicability of article XIII B to health care for MIA's.*

The state argues that care of the indigent, including medical care, has long been a county responsibility. It claims that although the state undertook to fund this responsibility from 1979 through 1982, it was merely temporarily (as it turned out) helping the counties meet their responsibilities, and that the subsequent reduction in state funding did not impose any "new program" or "higher level of service" on the counties within the meaning of section 6 of article XIII B. Plaintiffs respond that the critical question is not the traditional roles of the county and state, but who had the fiscal responsibility on November 6, 1979, when article XIII B took effect. The purpose of article XIII B supports the plaintiffs' position.

As we have noted, article XIII A of the Constitution (Proposition 13) and article XIII B are complementary measures. The former radically reduced county revenues, which led the state to assume responsibility for programs previously financed by the counties. Article XIII B, enacted one year later, froze both state and county appropriations at the level of the 1978-1979 budgets—a year when the budgets included state financing for the prior county programs, but not county financing for these programs. Article XIII B further limited the state's authority to transfer obligations to the counties. Reading the two together, it seems clear that article XIII B was intended to limit the power of the Legislature to retransfer to the counties those obligations which the state had assumed in the wake of Proposition 13.

Under article XIII B, both state and county appropriations limits are set on the basis of a calculation that begins with the budgets in effect when article XIII B was enacted. If the state could transfer to the county a program for which the state at that time had full financial responsibility, the county could be forced to assume additional financial obligations without the right to appropriate additional moneys. The state, at the same time, would get credit toward its appropriations limit for expenditures it did not pay. County taxpayers would be forced to accept new taxes or see the county forced to cut existing programs further; state taxpayers would discover that the state, by counting expenditures it did not pay, had acquired an actual revenue surplus while avoiding its obligation to refund revenues in excess of the appropriations limit. Such consequences are inconsistent with the purpose of article XIII B.

Our decisions interpreting article XIII B demonstrate that the state's subvention requirement under section 6 is not vitiated simply because the ***352** "program" existed before the effective date of article XIII B. The alternate phrase of section 6 of article XIII B, " 'higher level of service[,]' ... must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that *the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs.*' " (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 [233 Cal.Rptr. 38, 729 P.2d 202], italics added.)

Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d 830, presents a close analogy to the present case. The state Department of Education operated schools for severely handicapped students, but prior to 1979 *school districts were required by statute to contribute* to education of those students from the district at the state schools. In 1979, in response to the restrictions on school district revenues

imposed by Proposition 13, the statutes requiring such district contributions were repealed and the state assumed full responsibility for funding. The state funding responsibility continued until June 28, 1981, when Education Code section 59300 (hereafter section 59300), requiring school districts to share in these costs, became effective.

The plaintiff districts filed a test claim before the commission, contending they were entitled to state reimbursement under section 6 of article XIII B. The commission found the plaintiffs were not entitled to state reimbursement, on the rationale that the increase in costs to the districts compelled by section 59300 imposed no new program or higher level of services. The trial and intermediate appellate courts affirmed on the ground that section 59300 called for only an " 'adjustment of costs' " of educating the severely handicapped, and that "*a shift in the funding of an existing program is not a new program or a higher level of service*" within the meaning of article XIII B. (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at p. 834, italics added.)

We reversed, rejecting the state's theories that the funding shift to the county of the subject program's costs does not constitute a new program. "[There can be no] doubt that although the schools for the handicapped have been operated by the state for many years, the program was new insofar as plaintiffs are concerned, since *at the time section 59300 became effective* they were not required to contribute to the education of students from their districts at such schools. [¶] ... To hold, under the circumstances of this case, that a shift in funding of an existing program from the state to a local entity is not a new program as to the local agency would, we think, violate the intent underlying section 6 of article XIIIB. That article imposed spending limits on state and local governments, and it followed by one year the adoption by initiative of article XIIIA, which severely limited the taxing ***353** power of local governments. ... [¶] The intent of the section would plainly be violated if the state could, while retaining administrative control [11] of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate section 6 of article XIIIB because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIIIB, the result seems equally violative of the fundamental purpose underlying section 6 of that article.*" (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at pp. 835- 836, fn. omitted, italics added.)

The state seeks to distinguish *Lucia Mar* on the ground that the education of handicapped children in state schools had never been the responsibility of the local school district, but overlooks that the local district had previously been required to contribute to the cost. Indeed the similarities between *Lucia Mar* and the present case are striking. In *Lucia Mar,* prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-1979 the state and county shared the cost of caring for MIA's under the Medi-Cal program. In 1979, following enactment of Proposition 13, the state took full responsibility for both programs. Then in 1981 (for handicapped children) and 1982 (for MIA's), the state sought to shift some of the burden back to the counties. To distinguish these cases on the ground that care for MIA's is a county program but education of handicapped children a state program is to rely on arbitrary labels in place of financial realities.

The state presents a similar argument when it points to the following emphasized language from *Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d 830: "[B]ecause section 59300 shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts—*an obligation the school districts did not have at the time article XIII B was adopted*—it calls for plaintiffs to support a 'new program' within the meaning of section 6." (P. 836, fn. omitted, italics added.) It urges *Lucia Mar* reached its result *only* because the "program" requiring school district funding in that case *was not required by statute* at the effective date of ***354** article XIII B. The state then argues that the case at bench is distinguishable because it contends Alameda County had a continuing obligation *required by statute* antedating that effective date, which had only been "temporarily" [12] suspended when article XIII B became effective. I fail to see the distinction between a case—*Lucia Mar*—in which no existing statute as of 1979 imposed an obligation on the local government and one—this case—in which the statute existing in 1979 imposed no obligation on local government.

The state's argument misses the salient point. As I have explained, the application of section 6 of article XIII B does not depend upon when the program was created, but upon who had the burden of funding it when article XIII B went into effect. Our conclusion in *Lucia Mar* that the

educational program there in issue was a "new" program as to the school districts was not based on the presence or absence of any antecedent statutory obligation therefor. *Lucia Mar* determined that whether the program was new *as to the districts* depended on *when* they were compelled to assume the obligation to partially fund an existing program which they had not funded at the time article XIII B became effective.

The state further relies on two decisions, *Madera Community Hospital v. County of Madera* (1984) 155 Cal.App.3d 136 [201 Cal.Rptr. 768] and *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706], which hold that the county has a statutory obligation to provide medical care for indigents, but that it need not provide precisely the same level of services as the state provided under Medi-Cal. [13] Both are correct, but irrelevant to this case. [14] The county's obligation to MIA's is defined by Welfare and Institutions Code section 17000, not by the former Medi-Cal program. [15] If the ***355** state, in transferring an obligation to the counties, permits them to provide less services than the state provided, the state need only pay for the lower level of services. But it cannot escape its responsibility entirely, leaving the counties with a state-mandated obligation and no money to pay for it.

The state's arguments are also undercut by the fact that it continues to use the approximately $1 billion in spending authority, generated by its previous total funding of the health care program in question, as a portion of its initial *base spending limit* calculated pursuant to sections 1 and 3 of article XIII B. In short, the state may maintain here that care for MIA's is a county obligation, but when it computes its appropriation limit it treats the entire cost of such care as a state program.

IV. Conclusion

This is a time when both state and county governments face great financial difficulties. The counties, however, labor under a disability not imposed on the state, for article XIII A of the Constitution severely restricts their ability to raise additional revenue. It is, therefore, particularly important to enforce the provisions of article XIII B which prevent the state from imposing additional obligations upon the counties without providing the means to comply with these obligations.

The present majority opinion disserves the public interest. It denies standing to enforce article XIII B both to those persons whom it was designed to protect—the citizens and taxpayers—and to those harmed by its violation—the medically indigent adults. And by its reliance on technical grounds to avoid coming to grips with the merits of plaintiffs' appeal, it permits the state to continue to violate article XIII B and postpones the day when the medically indigent will receive adequate health care.

Mosk, J., concurred. ***356**

Footnotes

1 The complaint also sought a declaration that the county was obliged to provide health care services to indigents that were equivalent to those available to nonindigents. This issue is not before us. The County of Alameda aligned itself with plaintiffs in the superior court and did not oppose plaintiffs' effort to enforce section 6.

2 On November 23, 1987, the County of Los Angeles filed a test claim with the Commission. San Bernardino County joined as a test claimant. The Commission ruled against the counties, concluding that no state mandate had been created. The Los Angeles County Superior Court subsequently granted the counties' petition for writ of mandate (Code Civ. Proc., § 1094.5), reversing the Commission, on April 27, 1989. (No. C-731033.) An appeal from that judgment is presently pending in the Court of Appeal. (*County of Los Angeles v. State of California,* No. B049625.)

3 Plaintiffs argue that they seek only a declaration that AB 799 created a state mandate and an injunction against the shift of costs until the state decides what action to take. This is inconsistent with the prayer of their complaint which sought an injunction requiring defendants to restore Medi-Cal eligibility to all medically indigent adults until the state paid the cost of full health services for them. It is also unavailing.

An injunction against enforcement of a state mandate is available only after the Legislature fails to include funding in a local government claims bill following a determination by the Commission that a state mandate exists. (Gov. Code, § 17612.) Whether plaintiffs seek declaratory relief and/or an injunction, therefore, they are seeking to enforce section 6.

All further statutory references are to the Government Code unless otherwise indicated.

4 The test claim by the County of Los Angeles was filed prior to that proposed by Alameda County. The Alameda County claim was rejected for that reason. (See § 17521.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the issues the majority elects to address instead in this proceeding. Los Angeles County declined a request from Alameda County that it be included in the test claim because the two counties' systems of documentation were so similar that joining Alameda County would not be of any benefit. Alameda County and these plaintiffs were, of course, free to participate in the Commission hearing on the test claim. (§ 17555.)

5 " 'Local agency' means any city, county, special district, authority, or other political subdivision of the state." (§ 17518.)

6 " 'School district' means any school district, community college district, or county superintendant of schools." (§ 17519.)

7 Plaintiffs' argument that the Legislature's failure to make provision for individual enforcement of section 6 before the Commission demonstrates an intent to permit legal actions, is not persuasive. The legislative statement of intent to relegate all mandate disputes to the Commission is clear. A more likely explanation of the failure to provide for test cases to be initiated by individuals lies in recognition that (1) because section 6 creates rights only in governmental entities, individuals lack sufficient beneficial interest in either the receipt or expenditure of reimbursement funds to accord them standing; and (2) the number of local agencies having a direct interest in obtaining reimbursement is large enough to ensure that citizen interests will be adequately represented.

8 Plaintiffs are not without a remedy if the county fails to provide adequate health care, however. They may enforce the obligation imposed on the county by Welfare and Institutions Code sections 17000 and 17001, and by judicial action. (See, e.g., *Mooney v. Pickett* (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231].)

9 For this reason, it would be inappropriate to address the merits of plaintiff's claim in this proceeding. (Cf. *Dix v. Superior Court* (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063].) Unlike the dissent, we do not assume that in representing the state in this proceeding, the Attorney General necessarily represented the interests and views of these officials.

1 The majority states that "Plaintiffs are not without a remedy if the county fails to provide adequate health care .... They may enforce the obligation imposed on the county by Welfare and Institutions Code sections 17000 and 17001, and by judicial action." (Maj. opn., *ante,* p. 336, fn. 8*ante,* p. 336, fn. 8)

The majority fails to note that plaintiffs have already tried this remedy, and met with the response that, owing to the state's inadequate subvention funds, the county cannot afford to provide adequate health care.

2 It is of no importance that plaintiffs did not request issuance of a writ of mandate. In *Taschner v. City Council* (1973) 31 Cal.App.3d 48, 56 [107 Cal.Rptr. 214] (overruled on other grounds in *Associated Home Builders etc., Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 596 [135 Cal.Rptr. 41, 557 P.2d 473, 92 A.L.R.3d 1038]), the court said that "[a]s against a general demurrer, a complaint for declaratory relief may be treated as a petition for mandate [citations], and where a complaint for declaratory relief alleges facts sufficient to entitle plaintiff to mandate, it is error to sustain a general demurrer without leave to amend."

In the present case, the trial court ruled on a motion for summary judgment, but based that ruling not on the evidentiary record (which supported plaintiffs' showing of irreparable injury) but on the issues as framed by the pleadings. This is essentially equivalent to a ruling on demurrer, and a judgment denying standing could not be sustained on the narrow ground that plaintiffs asked for the wrong form of relief without giving them an opportunity to correct the defect. (See *Residents of Beverly Glen, Inc. v. City of Los Angeles* (1973) 34 Cal.App.3d 117, 127-128 [109 Cal.Rptr. 724].)

3 The majority's argument assumes that the state will comply with a judgment for plaintiffs by providing increased subvention funds. If the state were instead to comply by restoring Medi-Cal coverage for MIA's, or some other method of taking responsibility for their health needs, plaintiffs would benefit directly.

4 The majority emphasizes the statement of purpose of Government Code section 17500: "The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under section 6 of article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary, and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs."

The "existing system" to which Government Code section 17500 referred was the Property Tax Relief Act of 1972 (Rev. & Tax. Code, §§ 2201-2327), which authorized local agencies and school boards to request reimbursement from the state Controller. Apparently dissatisfied with this remedy, the agencies and boards were bypassing the Controller and bringing actions directly in the courts. (See, e.g., *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62 [222 Cal.Rptr. 750].) The legislative declaration refers to this phenomena. It does not discuss suits by individuals.

5 "(a) The initial decision by a county to opt into the system pursuant to Section 77300 *shall constitute a waiver of all claims for reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his discretion, determines that waiver to be appropriate*; provided, that a decision by a county to opt into the system pursuant to Section 77300 beginning with the second half of the 1988-89 fiscal year shall not constitute a waiver of a claim for reimbursement based on a statute chaptered on or before the date the act which added this chapter is chaptered, which is filed in acceptable form on or before the date the act which added this chapter is chaptered. A county may petition the Governor to exempt any such claim from this waiver requirement; and the Governor, in his discretion, may grant the exemption in whole or in part. The waiver shall not apply to or otherwise affect any claims accruing after initial notification. Renewal, renegotiation, or subsequent

notification to continue in the program shall not constitute a waiver. [¶] (b) The initial decision by a county to opt into the system pursuant to Section 77300 shall constitute a waiver of any claim, cause of action, or action whenever filed, with respect to the Trial Court Funding Act of 1985, Chapter 1607 of the Statutes of 1985, or Chapter 1211 of the Statutes of 1987." (Gov. Code, § 77203.5, italics added.)

"As used in this chapter, 'state-mandated local program' *means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution,* or Section 17561 of the Government Code, or both." (Gov. Code, § 77005, italics added.)

6 It is true that these officials would participate in a proceeding before the Commission on State Mandates, but they would do so as members of an administrative tribunal. On appellate review of a commission decision, its members, like the members of the Public Utilities Commission or the Workers' Compensation Appeals Board, are not respondents and do not appear to present their individual views and positions. For example, in *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830 [244 Cal.Rptr. 677, 750 P.2d 318], in which we reviewed a commission ruling relating to subvention payments for education of handicapped children, the named respondents were the state Superintendent of Public Instruction, the Department of Education, and the Commission on State Mandates. The individual members of the commission were not respondents and did not participate.

7 Welfare and Institutions Code section 17000 provides that "[e]very county ... shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions."

8 Article XIII B, section 1 provides: "The total annual appropriations subject to limitation of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and population except as otherwise provided in this Article."

9 Section 3 of article XIII B reads in relevant part: "The appropriations limit for any fiscal year ... shall be adjusted as follows:

"(a) In the event that the financial responsibility of providing services is transferred, in whole or in part ... from one entity of government to another, then for the year in which such transfer becomes effective the appropriation limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount. ..."

10 Section 6 of article XIII B further provides that the "Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." None of these exceptions apply in the present case.

11 The state notes that, in contrast to the program at issue in *Lucia Mar,* it has not retained administrative control over aid to MIA's. But the quoted language from *Lucia Mar,* while appropriate to the facts of that case, was not intended to establish a rule limiting article XIII B, section 6, to instances in which the state retains administrative control over the program that it requires the counties to fund. The constitutional language admits of no such limitation, and its recognition would permit the Legislature to evade the constitutional requirement.

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12 The state's repeated emphasis on the “temporary” nature of its funding is a form of post hoc reasoning. At the time article XIII B was enacted, the voters did not know which programs would be temporary and which permanent.

13 It must, however, provide a *comparable* level of services. (See *Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 564 [254 Cal.Rptr. 905].)

14 Certain language in *Madera Community Hospital v. County of Madera, supra,* 155 Cal.App.3d 136, however, is questionable. That opinion states that the “Legislature intended that County bear an obligation to its poor and indigent residents, *to be satisfied from county funds,* notwithstanding federal or state programs which exist concurrently with County's obligation and alleviate, to a greater or lesser extent, County's burden.” (P. 151.) Welfare and Institutions Code section 17000 by its terms, however, requires the county to provide support to residents only “when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.” Consequently, to the extent that the state or federal governments provide care for MIA's, the county's obligation to do so is reduced pro tanto.

15 The county's right to subvention funds under article XIII B arises because its duty to care for MIA's is a state-mandated responsibility; if the county had no duty, it would have no right to funds. No claim is made here that the funding of medical services for the indigent shifted to Alameda County is not a program “ 'mandated' ” by the state; i.e., that Alameda County has any option other than to pay these costs. (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at pp. 836-837.)

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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 1. Legislative Intent (Refs & Annos)

West's Ann.Cal.Gov.Code § 17500

§ 17500. Legislative findings and declarations

Effective: January 1, 2005
Currentness

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIIIB of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.

It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIIIB of the California Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIIIB of the California Constitution.

Credits
(Added by Stats.1984, c. 1459, § 1. Amended by Stats.2004, c. 890 (A.B.2856), § 2.)

Notes of Decisions (10)

West's Ann. Cal. Gov. Code § 17500, CA GOVT § 17500
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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West's Ann.Cal.Gov.Code § 17514

§ 17514. Costs mandated by the state

Currentness

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution.

Credits

(Added by Stats.1984, c. 1459, § 1.)

Notes of Decisions (16)

West's Ann. Cal. Gov. Code § 17514, CA GOVT § 17514
Current with urgency legislation through Ch. 17 of 2021 Reg.Sess

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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 4. Identification and Payment of Costs Mandated by the State (Refs & Annos)
Article 1. Commission Procedure (Refs & Annos)

West's Ann.Cal.Gov.Code § 17556

§ 17556. Findings; costs not mandated upon certain conditions

Effective: October 19, 2010
Currentness

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

(a) The claim is submitted by a local agency or school district that requests or previously requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this subdivision. This subdivision applies regardless of whether the resolution from the governing body or a letter from a delegated representative of the governing body was adopted or sent prior to or after the date on which the statute or executive order was enacted or issued.

(b) The statute or executive order affirmed for the state a mandate that has been declared existing law or regulation by action of the courts. This subdivision applies regardless of whether the action of the courts occurred prior to or after the date on which the statute or executive order was enacted or issued.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. This subdivision applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. This subdivision applies regardless of whether a statute, executive order, or appropriation in the Budget Act or other bill that either provides for offsetting savings that result in no net costs or provides for additional revenue specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

(f) The statute or executive order imposes duties that are necessary to implement, or are expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

Credits

(Added by Stats.1984, c. 1459, § 1. Amended by Stats.1986, c. 879, § 4; Stats.1989, c. 589, § 1; Stats.2004, c. 895 (A.B.2855), § 14; Stats.2005, c. 72 (A.B.138), § 7, eff. July 19, 2005; Stats.2006, c. 538 (S.B.1852), § 279; Stats.2010, c. 719 (S.B.856), § 31, eff. Oct. 19, 2010.)

Editors' Notes

VALIDITY

A prior version of this section was held unconstitutional as impermissibly broad, in the decision of California School Boards Assn. v. State of California (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183.

Notes of Decisions (35)

West's Ann. Cal. Gov. Code § 17556, CA GOVT § 17556
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 4. Identification and Payment of Costs Mandated by the State (Refs & Annos)
Article 1. Commission Procedure (Refs & Annos)

West's Ann.Cal.Gov.Code § 17564

§ 17564. Claims under specified dollar amount; claims for direct and indirect costs

Effective: January 1, 2008
Currentness

(a) No claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars ($1,000). However, a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars ($1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars ($1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines or reasonable reimbursement methodology and claiming instructions.

(c) Claims for direct and indirect costs filed pursuant to a legislatively determined mandate pursuant to Section 17573 shall be filed and paid in the manner prescribed in the Budget Act or other bill, or claiming instructions, if applicable.

Credits
(Added by Stats.1986, c. 879, § 9. Amended by Stats.1992, c. 1041 (A.B.1690), § 4; Stats.1999, c. 643 (A.B.1679), § 6; Stats.2002, c. 1124 (A.B.3000), § 30.9, eff. Sept. 30, 2002; Stats.2004, c. 890 (A.B.2856), § 23; Stats.2007, c. 329 (A.B.1222), § 9.)

West's Ann. Cal. Gov. Code § 17564, CA GOVT § 17564
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 4. Identification and Payment of Costs Mandated by the State (Refs & Annos)
Article 1.5. Legislatively Determined Mandate Procedure (Refs & Annos)

West's Ann.Cal.Gov.Code § 17573

§ 17573. Requests regarding reimbursements; limitations tolled; joint requests; contents; time period; term; statute adoption requirements; notice of actions taken; stay of proceedings

Effective: January 1, 2008
Currentness

(a) Notwithstanding Section 17551, the Department of Finance and a local agency, school district, or statewide association may jointly request of the chairpersons of the committees in each house of the Legislature that consider appropriations, and the chairpersons of the committees and appropriate subcommittees in each house of the Legislature that consider the State Budget, that the Legislature (1) determine that a statute or executive order, or portion thereof, mandates a new program or higher level of service requiring reimbursement of local governments pursuant to Section 6 of Article XIII B of the California Constitution, (2) establish a reimbursement methodology, and (3) appropriate funds for reimbursement of costs. For purposes of this section, "statewide association" includes a statewide association representing local agencies or school districts, as defined in Sections 17518 and 17519.

(b) The statute of limitations specified in Section 17551 shall be tolled from the date a local agency, school district, or statewide association contacts the Department of Finance or responds to a Department of Finance request to initiate a joint request for a legislatively determined mandate pursuant to subdivision (a), to (1) the date that the Budget Act for the subsequent fiscal year is adopted if a joint request is submitted pursuant to subdivision (a), or (2) the date on which the Department of Finance, or a local agency, school district, or statewide association notifies the other party of its decision not to submit a joint request. A local agency, school district, or statewide association, or the Department of Finance shall provide written notification to the commission of each of these dates.

(c) A joint request made under subdivision (a) shall be in writing and include all of the following:

(1) Identification of those provisions of the statute or executive order, or portion thereof, that mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, a proposed reimbursement methodology, and the period of reimbursement.

(2) A list of eligible claimants and a statewide estimate for the initial claiming period and annual dollar amount necessary to reimburse local agencies or school districts to comply with that statute or executive order that mandates a new program or higher level of service.

(3) Documentation of significant support among local agencies or school districts for the proposed reimbursement methodology, including, but not limited to, endorsements by statewide associations and letters of approval from local agencies or school districts.

(d) A joint request authorized by this section may be submitted to the Legislature pursuant to subdivision (a) at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim on the same statute or executive order is pending with the commission. If a test claim is pending before the commission, the period of reimbursement established by that filing shall apply to a joint request filed pursuant to this section.

(e)(1) If the Legislature accepts the joint request and determines that those provisions of the statute or executive order, or portion thereof, mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, it shall adopt a statute declaring that the statute or executive order, or portion thereof, is a legislatively determined mandate and specify the term and period of reimbursement and methodology for reimbursing eligible local agencies or school districts. If no term is specified in the statute, then the term shall be five years, beginning July 1 of the year in which the statute is enacted.

(2) For the purpose of this subdivision, "term" means the number of years specified in the statute adopted pursuant to this subdivision for reimbursing eligible local agencies or school districts for a legislatively determined mandate.

(f) When the Legislature adopts a statute pursuant to paragraph (1) of subdivision (e) on a mandate subject to subdivision (b) of Section 6 of Article XIIIB of the California Constitution, the Legislature shall do either of the following:

(1) Appropriate in the Budget Act the full payable amount for reimbursement to local agencies that has not been previously paid.

(2) Suspend the operation of the mandate pursuant to Section 17581 or repeal the mandate.

(g) The Department of Finance, or a local agency, school district, or statewide association shall notify the commission of actions taken pursuant to this section, as specified below:

(1) Provide the commission with a copy of any communications regarding development of a joint request under this section and a copy of a joint request when it is submitted to the Legislature.

(2) Notify the commission of the date of (A) the Legislature's action on a joint request in the Budget Act, or (B) the Department of Finance's decision not to submit a joint request on a specific statute or executive order.

(h) Upon receipt of notice that a joint request has been submitted to the Legislature on the same statute or executive order as a pending test claim, the commission may stay its proceedings on the pending test claim upon the request of any party.

(i) Upon enactment of a statute declaring a legislatively determined mandate, enactment of a reimbursement methodology, and appropriation for reimbursement of the full payable amount that has not been previously paid in the Budget Act, all of the following shall apply:

(1) The Controller shall prepare claiming instructions pursuant to Section 17558, if applicable.

(2) The commission shall not adopt a statement of decision, parameters and guidelines, or statewide cost estimate on the same statute or executive order unless a local agency or school district that has rejected the amount of reimbursement files a test claim or takes over a withdrawn test claim on the same statute or executive order.

(3) A local agency or school district accepting payment for the statute or executive order, or portion thereof, that mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution shall not be required to submit parameters and guidelines if it is the successful test claimant pursuant to Section 17557.

Credits
(Added by Stats.2007, c. 329 (A.B.1222), § 11.)

West's Ann. Cal. Gov. Code § 17573, CA GOVT § 17573
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 7, 2025, I served the:

- **Current Mailing List dated May 7, 2025**
- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued May 7, 2025**
- **Test Claim filed by the County of Sacramento on December 23, 2024**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 7, 2025 at Sacramento, California.

Jill Magee
_____

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/7/25

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets, 24-TC-06

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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DEPARTMENT OF FINANCE

Gavin Newsom ▪ Governor
915 L Street ▪ Sacramento CA ▪ 95814-3706 ▪ www.dof.ca.gov

RECEIVED
June 06, 2025
Commission on State Mandates

June 6, 2025

Exhibit B

Juliana Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Test Claim 24-TC-06, Emergency Shelters: Persons with Pets

Dear Director Gmur:

The Department of Finance (Finance) has completed its review of test claim 24-TC-06 submitted to the Commission on State Mandates (Commission) by the County of Sacramento (Claimant), in which the Claimant alleges it incurred reimbursable, state-mandated costs associated with Chapter 344, Statutes of 2023 (AB 781).

Existing law provides cities and counties with the discretion to create disaster councils and, if they choose to do so, the cities and counties must also develop an emergency plan. An emergency plan is an official and approved document that outlines the principles and methods for carrying out emergency operations and providing mutual aid.

Prior to 2024 and the passage of AB 781, city and county emergency plans were not required to designate emergency shelters that are able to accommodate persons with pets.

Effective January 1, 2024, AB 781 added Government Code section 8593.10 to do the following:

- Require city and county emergency plans to designate emergency shelters that are able to accommodate persons with pets.
- Require that at least one city- or county-designated emergency shelter be able to accommodate pets.
- Require cities and counties, to the extent practicable, to designate at least one cooling or warming center that can accommodate persons with pets.
- Require emergency shelters designated as able to accommodate pets to operate in accordance with safety provisions regarding the sheltering of pets in state and local emergency plans, and in accordance with applicable Federal

Emergency Management Agency (FEMA) disaster assistance policies and procedures.
- Require a city or county to make specified pet emergency preparedness information publicly available on its internet website.

The Claimant alleges it incurred state-mandated, reimbursable costs to update its emergency plan, and to operate emergency shelters cooling shelters and warming shelters in compliance with AB 781, particularly as this relates to complying with FEMA policies and procedures, and state and local emergency plan provisions, concerning sheltering pets. The Claimant identifies $4,260 in such costs in 2023-24 and estimates $58,186 in such costs in 2024-25.

Finance notes the requirement to develop emergency plans stems from the discretionary decision of a city or county to form a disaster council. Finance asserts that any costs incurred by the Claimant to update emergency plans to comply with AB 781 are therefore not state-reimbursable. Per subdivision (a) of Government Code section 8610, excerpted below, counties, cities and counties, and cities, have discretion to create disaster councils. The subsequent requirement to develop an emergency plan, and to update it as required by AB 781, is the result of that discretionary decision.

> "*(a) Counties, cities and counties, and cities may create disaster councils by ordinance. A disaster council shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private.*"

Finance further notes it is not aware of any statutory requirement for a local government to operate an emergency shelter, except for requirements that are downstream from the discretionary decision to create a disaster council. Finance therefore asserts that any additional costs imposed by this bill related to the operation of an emergency shelter are discretionary and not state-reimbursable.

Additionally, Finance notes it is not aware of any statutory requirement for a local government to operate cooling or warming shelters. Finance therefore asserts that any additional costs imposed by this bill related to the operation of a cooling or warming shelter are discretionary and not state-reimbursable.

Even if the Commission were to determine there is a statutory requirement for the Claimant to operate cooling or warming centers, Finance notes that AB 781 provides cities and counties with discretion to designate cooling or heating shelters that can accommodate persons with pets. Government Code section 8593.10 (b) (1) (D) and (E), as amended by AB 781 (excerpted below), states cities and counties "shall, to the extent practicable," designate cooling and warming shelters that can accommodate

persons with pets. The determination of practicability is discretionary, and the costs associated with an affirmative determination are therefore not state-reimbursable.

> "*(D) Whenever a city or county designates any number of emergency cooling centers, it shall, to the extent practicable, designate at least one cooling center that can accommodate persons with pets.*
> *(E) Whenever a city or county designates any number of emergency warming centers, it shall, to the extent practicable, designate at least one heating center that can accommodate persons with pets."*

Finally, the Claimant is seeking reimbursement for costs to operate both emergency shelters and cooling and warming shelters, in accordance with applicable pet-related provisions of state and local emergency plans and FEMA disaster assistance policies and procedures. However, pursuant to Government Code section 8593.10 (b) (2), as amended by AB 781 (excerpted below), these requirements apply to emergency shelters, not to cooling or warming shelters:

> "*(2) An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:*
> *(A) Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.*
> *(B) Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency."*

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

Teresa Calvert

TERESA CALVERT
Program Budget Manager

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 10, 2025, I served the:

- **Current Mailing List dated May 7, 2025**
- **Finance's Comments on the Test Claim filed June 6, 2025**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 10, 2025 at Sacramento, California.

David Chavez
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/7/25

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets, 24-TC-06

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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California State Association of Counties®
1100 K Street, Suite 101 | Sacramento, CA 95814

Thursday, July 3, 2025

Exhibit C

Commission on State Mandates
Filed Date
07/03/2025

Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

RE: Accessibility to emergency information and services: emergency shelters: persons with pets. 24-TC-06

LATE FILING

Dear Chair Stephenshaw and Members of the Commission on State Mandates,

The California State Association of Counties (CSAC) submits this comment letter regarding the test claim submitted by Sacramento County for Chapter 344, Statutes of 2023 (Assembly Bill 781, Maienschein). The primary purpose of CSAC is to represent county government before the California Legislature, California administrative agencies, and the federal government. This includes advocating on the value and need for county programs and services and for adequate funding to provide those services.

CSAC wishes to provide the following comments in response to the comment letter submitted by the California Department of Finance (DOF) on June 6, 2025 regarding 24-TC-06:

1. **DOF Comment: "**Finance notes the requirement to develop emergency plans stems from the discretionary decision of a city or county to form a disaster council."

    a. **CSAC Response:** This is not correct. The requirement to develop emergency plans does not stem from a local agency's decision to form a disaster council. Rather, counties, as political subdivisions of the state, are required to take action to carry out the provisions of the State Emergency Plan. California Government Code requires the Governor to coordinate and enforce the State Emergency Plan by coordinating the preparation of plans for mitigation of the effects of an emergency by the political subdivisions of the state. The Governor's Office of Emergency Services (Cal OES) is the delegated authority by the Governor to implement the State Emergency Plan and perform executive functions assigned by the Governor to support all phases of emergency management. This includes the promulgation of guidelines and assignments to state government and its

political subdivisions to support the development of California's emergency management system. As such, the State's emergency management system designates local governments—such as counties—as primarily responsible for emergency preparedness and response.

While it is discretionary that local emergency plans be developed and approved by a local disaster council, it is not discretionary for local governments to have and maintain emergency plans. The establishment of a local disaster council is one manner in which local governments take action to comply with the requirement to carry out the provisions of the State Emergency Plan. Lacking the establishment of a local disaster council does not exempt a local government from compliance with the State Emergency Act or the directives of Cal OES. The provisions of AB 781 do not specify that they pertain only to emergency plans as developed and approved by local disaster councils. Rather, AB 781 applies to any city or county emergency plan that serves to carry out the provisions of the State Emergency Plan.

The California Emergency Services Act:

i. "The State Emergency Plan shall be in effect in each political subdivision of the state, and the governing body of **each political subdivision shall take such action as may be necessary to carry out the provisions thereof**." (California Government Code Section 8568)

ii. " "Political subdivision" includes any city, city and county, county, district, or other local governmental agency or public agency authorized by law." (California Government Code Section 8557(b))

iii. " "Emergency plans" means those official and approved documents which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. These plans include such elements as continuity of government, the emergency services of governmental agencies, mobilization of resources, mutual aid, and public information." (California Government Code Section 8560(a))

iv. "The Governor shall coordinate the State Emergency Plan and those programs necessary for the mitigation of the effects of an emergency in this state; and **he shall coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of this state**, such plans and programs to be integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government and of other states to the fullest possible extent." (Government Code Section 8569).

v. "A county shall send a copy of its emergency plan to the Office of Emergency Services on or before March 1, 2022, and upon any update to the plan after that date." (Government Code Section 8593.3.2)

vi. "On or before July 31, 2015, the Office of Emergency Services shall update the State Emergency Plan to include proposed best practices for local governments and nongovernmental entities to use to mobilize and evacuate people with disabilities and others with access and functional needs during an emergency or natural disaster." (Government Code Section 8570.3)

2. **DOF Comment: "**Finance further notes it is not aware of any statutory requirement for a local government to operate an emergency shelter, except for requirements that are downstream from the discretionary decision to create a disaster council."

    a. **CSAC Response:** As established above, counties, as political subdivisions of the state, are required to take action to carry out the provisions of the State Emergency Plan. Compliance with the State Emergency Plan includes myriad requirements for accessibility to emergency information and services for the functional needs population pursuant to Government Code Article 6.5 (Sections 8593 to 8594.16). This includes a requirement for counties, upon the next update to their emergency plans, to integrate functional needs into their emergency planning by addressing how the functional needs population is served by emergency sheltering (Government Code Section 8593.3). It is from this requirement that counties are mandated to integrate many components of accessibility into their emergency plans, as follows:

i. "A county, including a city and county, shall, upon the next update to its emergency plan, integrate access and functional needs into its emergency plan by addressing, at a minimum, how the access and functional needs population is being served by the following…Emergency sheltering," (Government Code Section 8593.3)

ii. "Upon the next update of a city or county's emergency plan: A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets." (Government Code Section 8593.10(b)(1) and 8593.10(b)(1)(A))

iii. "A county, including a city and county, shall, upon the next update to its emergency plan, integrate cultural competence into its emergency plan by addressing, at a minimum, how culturally diverse communities within its jurisdiction are served by the following…Emergency evacuation and sheltering." (Government Code Section 8593.3.5(a) and 8593.3.5(a)(2)).

CSAC urges the Commission to recognize that local emergency planning, local maintenance of emergency plans, and local compliance with the State Emergency Plan are not discretionary in nature. We encourage the Commission to evaluate test claim 24-TC-06 with the establishment that counties, as political subdivisions of the state, are required to carry out the State Emergency Plan, including accessibility and functional requirements pursuant to Government Code Article 6.5.

Thank you for your consideration of our comments.

Respectfully submitted,



Jacqueline Wong-Hernandez
Chief Policy Officer

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 3, 2025, I served the:

- **Current Mailing List dated May 7, 2025**
- **Claimant's Rebuttal Comments filed July 3, 2025**
- **CSAC's Late Comments on the Test Claim filed July 3, 2025**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 3, 2025 at Sacramento, California.

Jill Magee

Jill Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/7/25

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets, 24-TC-06

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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July 3, 2025

Exhibit D

Commission on State Mandates
Filed Date
07/03/2025

Commission on State Mandates
Attn: Juliana F. Gmur, Executive Director
980 Ninth Street, Suite 300
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Re: County of Sacramento Rebuttal to Department of Finance Response - Test Claim, Emergency Shelters: Persons Pets (24-TC-06)

Dear Director Gmur and Commission Members:

Sacramento County respectfully submits this rebuttal to the State of California Department of Finance's (DOF) June 6, 2025, response dated regarding our Test Claim 24-TC-06 on Emergency Shelters for Persons with Pets.

We respectfully dispute the DOF's assertion that the requirement to develop emergency plans solely stems from a discretionary decision of a city or county to form a disaster council, as further detailed below. Viewed cumulatively with similar legal requirements, it is clear having an emergency plan is not a discretionary choice for local agencies. Moreover, DOF's own previous analysis of SB 2778 which amended Government Code section 8610 in 1990 correctly determined that new state requirements affecting disaster plans create reimbursable mandated costs for local agencies with previously established disaster councils. This historical DOF analysis provides the correct conclusion which reflects that each piece of additional emergency plan related legislation imposes an additional layer onto the existing requirements for emergency services planning and operations that jurisdictions with established disaster councils cannot simply opt out, as implied by the more recent DOF June 6, 2025, letter. A jurisdiction with an existing disaster council which attempted to opt out would be exposed to substantial penalties making maintaining a disaster council a practical mandate, which is evidenced by all cities and counties in the state having one as further detailed herein. DOF's June 6, 2025, letter contains no reference to the Department's more complete and accurate 1990 reimbursable mandate conclusion or explanation as to why it would not apply here.

Additionally, we believe a plain reading of AB 781 demonstrates that a higher level of service is required whenever a response is taken to open shelters. While DOF notes a local agency may determine it's not practicable in certain instances (limited only to cooling and warming shelters), the law clearly defines a higher level of service requirement than is in existence prior to AB781. The

Legislature has mandated a county or city must designate at least one cooling and/or one warming center that can accommodate persons with pets when it is practicable to do so.

In considering whether AB781 is a state reimbursable mandate, it's particularly noteworthy to examine the Legislature's understanding when approving the bill. The final Senate Floor Analysis from AB781 on September 12, 2023[1], summarized the intent as:

> *"This bill would require all counties plans, and cities with previously adopted emergency plans that designate emergency shelters, to update their emergency plan and designate emergency shelters able to accommodate persons with household pets. This bill additionally requires cities and counties, to the extent practicable, to designate a cooling center or warming center open to pets when any number of centers are opened."*
>
> *According to the Senate Committee on Appropriations AB 781 creates:* ***"Unknown, potentially significant state reimbursable mandated costs for cities and counties to update their emergency plans, designate at least one emergency shelter able to accommodate persons with pets, and post specified information online (General Fund).*** *There may also be significant costs for counties that do not already have an existing shelter able to safely accommodate persons with pets to provide an emergency shelter that complies with the mandates of this bill." (Emphasis added).*

The Senate Appropriations Committee AB 781 finding in this regard is consistent with the DOF's 1990 analysis of SB 2778 with respect to the addition of state mandated reimbursable costs associated with adding local emergency plan reporting requirements.

Prior DOF Analysis

Government Code section 8610 was amended in 1990 by SB 2778 to require local disaster councils to supply a copy of any developed disaster plans to the Office of Emergency Services. Attached to the accompanying declaration of Sacramento County Deputy County Counsel Keith Floyd is a certified copy of the SB 2778 analysis prepared by the DOF which is maintained in the Governor's Chaptered Bill File.

Section 2 of SB 2778 contains a finding that while the requirement to supply plans to the Office of Emergency Services imposed a state-mandated local program with respect to any disaster council in existence on the operative date of the bill, *"no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state...."* The Department of Finance's bill analysis in support of the bill contains a "Local Cost Estimate" (pages 3-5 of the attachment to the Keith Floyd declaration) which helps explain the "no reimbursement" determination.

[1] Senate Floor Analysis on AB781 as amended on June 20, 2023. Included as Attachment 2.

The Local Cost Estimate analysis notes that Government Code section 17564 provides that no reimbursement claim shall be made nor paid pursuant to sections 17551 and 17561, unless the claim exceeded the then-minimum of $200 (currently $1,000). The analysis further references case law holdings that costs to a local entity resulting from an action undertaken at the option of a local entity, such as a decision to exercise the power of eminent domain, are not reimbursable as *"costs mandated by the state"*.

With those principles in mind, the DOF's SB 2778 Local Cost Estimate analysis concludes the requirement to send a copy of a disaster recovery plan to the Office of Emergency Services *"would create a reimbursable mandate, but only for those jurisdictions with councils in existence on the operative date of the bill. No reimbursable mandate would exist for disaster councils established thereafter because local entities would have the option not to establish such councils."* The DOF additionally found with respect to existing disaster councils, *"it is believed that the additional reproduction and postage costs associated with sending a copy of a disaster plan to OES would not exceed the $200 threshold necessary to file a claim before the Commission on State Mandates pursuant to the Government Code."* Consequently, under those particular circumstances, the bill did not create a mandate which required reimbursement.

The DOF's recent conclusion that AB 781 did not impose a state mandate because counties and cities have discretion to create disaster councils under Government Code section 8610 is inconsistent with, and contrary to, DOF's previous more complete SB 2778 analysis of whether adding emergency plan requirements creates a state mandated reimbursable cost for cities and counties with disaster councils in existence at the time the Legislature imposes the new requirement. Applying the reasoning the DOF used in its analysis of SB 2778 in 1990, AB 781 created a reimbursable state mandate for those counties and cities which had a disaster council established prior to AB 781 and whose costs associated with meeting the bill requirements will exceed the $1,000 threshold of Government Code section 17564.

Emergency Plans

As DOF commented, an emergency plan is an official approved document that outlines the principles and methods for carrying out emergency operations and providing mutual aid. However, missing from the comments is a discussion of the following legal and regulatory requirements associated with emergency plans which help establish AB 781 created a state mandate subject to reimbursable costs:

Disaster Councils – Nearly every local agency has an accredited disaster council[2]with recent data demonstrating that all 58 counties and 481 cities having disaster councils. The majority of these were formed during 1946-1950 in the Civil Defense Era, following the amendment in 1945 of former Military and Veterans Code section 1571 (Stats. 1945 Chap. 1024, Sec. 27) (predecessor of current Government Code section 8610), which provided:

> *"Counties, cities and counties, and cities may create disaster councils by ordinance. "A disaster council shall develop a plan for meeting any condition of extreme peril or any condition which is specified in Section 1505 as constituting the basis for a declaration of extreme emergency; such plan shall provide for the effective mobilization of all the resources of the community, both public and private."*

While the DOF argues that a disaster council is a discretionary decision, it is functionally required when considered from a practical perspective within the larger legal context. The provisions of the current Government Code section 8610(a), which remain similar to the 1945 code provide:

> *"The governing body of a county, city and county, or city may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.*

Thus, in order to authorize public officers, employees, and volunteers to respond to an emergency and command citizens to assist in their disaster service worker duties, a county or city must have previously formed a disaster council. Absent this formation, a local agency will not be able to effectively marshal resources in response to an emergency. This is evidenced by every single county and city in the State of California having a disaster council, demonstrating this is functionally a mandate as they are separately charged with responding to local disasters. This approach has been built into the foundation of later legislation such as the Standardized Emergency Services System [discussed later herein]. By being able to press individuals into service under a local Disaster Service Council, counties and cities are further protected from liability under Government Code 8657(a) for their official actions in response to said emergencies, which is a critical feature of the Government Code related to disaster councils that cannot be addressed through other means.

Operational Areas – Under Government Code section 8605, each county is required to serve a role in emergency management broader than its own local responsibilities:

[2] Based on California Office of Emergency Services (CalOES) data on Disaster Councils as of July 15, 2024 available here: https://www.caloes.ca.gov/wp-content/uploads/Preparedness/Documents/Disaster-Council-List-7-2024.pdf and included as Attachment 3.

> *"Each county is designated as an operational area. In a state of war emergency each operational area shall serve as a link in the system of communications and coordination between the state's emergency operating centers and the operating centers of the political subdivisions comprising the operational area."*

This effectively requires counties to serve a role in the coordination for their respective operational areas for emergency services, including serving as a coordinating body between state and local agencies during an emergency. In order to effectively serve this role, the local agencies must have a process (i.e. a plan) of how to conduct this communication during an emergency.

State Emergency Management System (SEMS) – Government Code section 8607 authorized the Office of Emergency Services to come up with a standardized emergency management system to ensure all local agencies were effectively responding to emergencies in accordance with the standardized emergency management system. Below are a few excerpts from Government Code 8607:

> "*(a) The Office of Emergency Services, in coordination with all interested state agencies with designated response roles in the state emergency plan and interested local emergency management agencies, shall jointly establish by regulation a standardized emergency management system for use by all emergency response agencies."*
>
> *"(e) (1) Each local agency,* ***in order to be eligible for any funding of response-related costs under disaster assistance programs****, shall use the standardized emergency management system as adopted pursuant to subdivision (a) to coordinate multiple jurisdiction or multiple agency operations."*

As shown in the above language, the intent of SEMS was for local agencies to adopt consistent plans and processes for their approach to Emergency Management. It clearly also utilized a coercive approach by precluding eligibility for State Disaster Assistance funding absent adoption of these methods at the local level. But SEMS also took it one step further and allowed the California Office of Emergency Services (CalOES) to adopt regulations regarding the use of SEMS by local agencies. Looking deeper into SEMS, a rulemaking process was conducted and additional regulations were adopted into the California Code of Regulations (CCR) including 19 CCR § 2445 on by specifying:

> *"Local governments, operational areas, and state agencies shall include the use of SEMS in emergency plans and procedures pursuant to [19 CCR] § 2403, 2405, 2407, 2409, 2411, 2413 and 2415"*.

These regulations became operative on December 31, 1995, effectively requiring that Emergency Plans and Procedures be adopted pursuant to SEMS after that date.

State Review of Emergency Plans –The functional requirement for local agencies to have emergency plans, is further demonstrated by past legislative efforts to require periodic reviews each time a local agency updates those plans and the requirement to send copies of local emergency plans to the State Government.

Pursuant to Government Code section 8610:

> *"(c) (1) The Office of Emergency Services shall annually review, at a minimum, 10 emergency plans submitted to the office.*
>
> *(2) The Office of Emergency Services shall determine if a plan reviewed pursuant to this subdivision substantially conforms to or exceeds the recommendations described in the Federal Emergency Management Agency's Comprehensive Preparedness Guide 101, or other successor emergency operations planning guidance.*
>
> *(3) The Office of Emergency Services shall prioritize, in complying with paragraph (1), a plan submitted from a county determined to be at high risk of wildfire disaster."*

Further, all counties are required to file a copy of their emergency plans with The California Office of Emergency Services under Government Code section 8593.3.2. Pursuant to section 8593.3.2:

> *"(a) A county shall send a copy of its emergency plan to the Office of Emergency Services on or before March 1, 2022, and upon any update to the plan after that date."*

This clearly demonstrates the State's knowledge that cities and counties are required to have emergency plans as the State both reviews them for conformance with emergency best practices and requires maintaining a copy of all the local emergency plans on file.

History of Mandating Components of Emergency Plans – The Legislature has a history of adding required specific components within emergency plans. If not for the expectation that local agencies would be required to update their plans to comply with the legislation, the new legislation would be meaningless. Thus, it's clear the legislative intent of passing these pieces of legislation including AB781 was that emergency plans must be updated and emergency responses amended to address the legislative intent. This is evidenced through the following three sections adopted prior to AB781 requiring updates to emergency plans.

- Health and Safety Code section 41090 (Article 8 added by Stats. 2019, Ch. 392, Sec. 1.) [excerpt below] requires the Sacramento Metropolitan Air Quality Management District in conjunction with the local agencies including the Sacramento County Office of Emergency Management to develop emergency plans specific to a wildfire smoke air pollution emergency. This imposed specific emergency plan requirements on the Sacramento area.

> *"(a) (1) The Sacramento district shall prepare a wildfire smoke air pollution emergency plan as an informational source for local agencies and the public during a wildfire smoke air pollution emergency.*
> *(2) The Sacramento district shall develop the wildfire smoke air pollution emergency plan in coordination with its county health officer and in consultation with all of the following:*
> *(A) Local offices of emergency management or emergency services.*
> *(B) School districts.*
> *(C) Regional planning agencies.*
> *(D) The state board."*

- Government Code section 8593.3.5 (Added by Stats. 2019, Ch. 402, Sec. 2. (SB 160) Effective January 1, 2020.) requires each county in its next update to its emergency plan to address a variety of items . Specifically:

> *"(a) A county, including a city and county, shall, upon the next update to its emergency plan, integrate cultural competence into its emergency plan by addressing, at a minimum, how culturally diverse communities within its jurisdiction are served by the following:*
> *(1) Emergency communications, including the integration of interpreters and translators.*
> *(2) Emergency evacuation and sheltering.*
> *(3) Emergency mitigation and prevention.*
> *(4) Emergency planning, including drawing on community-based values and customs, and incorporating qualified representatives from diverse population groups in the community, during the planning process.*
> *(5) Emergency preparedness, including the use of culturally appropriate resources and outreach techniques to educate and prepare community members for emergencies or disasters."*

- Government Code 8593.3 (Amended by Stats. 2022, Ch. 247, Sec. 1. (AB 2645) Effective January 1, 2023.) [excerpt below] requires local agencies in the update of their next emergency plans to incorporate specific requirements around emergency communication, evacuation and sheltering to specifically account for the needs of the subset of the local population who have access and functional needs as defined in the government code.

> *"(a) A county, including a city and county, shall, upon the next update to its emergency plan, integrate access and functional needs into its emergency plan by addressing, at a minimum, how the access and functional needs population is being served by the following:*
> *(1) Emergency communications, including the integration of interpreters, translators, and assistive technology.*
> *(2) Emergency evacuation, including all of the following:*
> *(A) The identification of transportation resources and resources that are compliant with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) for individuals who are dependent on public transportation.*
> *(B) Integrating evacuation and transportation plans to account for local community resilience centers.*
> *(C) Ensuring that local community resilience centers are prepared to serve as communitywide assets during extreme heat events and other disasters.*
> *(D) Designating available locations that may be necessary to provide respite to individuals during emergencies, including, but not limited to, extreme heat, cold, or unhealthy air incidents.*
> *(E) Integrating evacuation plans to account for the following:*
> *(i) Community resilience center programs, including, but not limited to, the Integrated Climate Adaptation and Resiliency Program (ICARP) Community Resilience and Heat Grant Program developed by the Office of Planning and Research.*
> *(ii) Fairground resilience center programs, including, but not limited to, the Fairground and Community Resilience Center Grant Program developed by the Department of Food and Agriculture.*
> *(3) Emergency sheltering, including both of the following:*
> *(A) Ensuring that designated shelters are compliant with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or can be made compliant through modification and that showers and bathrooms are fully accessible to all occupants.*
> *(B) Integrating sheltering and transportation plans to account for transportation between community resilience centers and shelters."*

Substantial Penalty – If the Commission considers a disaster council discretionary notwithstanding all of the information above, we ask the Commission to contemplate even if a local agency isn't legally compelled to have a disaster council, whether local agencies are practically compelled to have or maintain a disaster council. In order to make the determination of whether local agencies

are practically compelled, one should look at the penalties that are imposed for not maintaining a disaster council.

We previously noted that Government Code 8657(a) provides protection from liability for employee and volunteer official actions in response to emergencies. Further, a lack of participation in emergency planning under the Standardized Emergency Management System (SEMS), achieved through a disaster council, would subject a local agency to not be eligible for funding of response related costs under a disaster assistance program as specified in Government Code 8607(e)(1). These substantial penalties help further explain why all counties and cities are part of this system which includes requiring emergency plans to ensure local communities have access to the financial resources and protections to properly recover from emergencies.

Thus, taking a broader view of all the legislation and regulation around emergency plans makes it clear the intent was local agencies [which are already expected to have emergency plans] are mandated to update their emergency plans to be compliant with AB 781 to increase disaster preparedness for pet owners and to care for their animals during the emergency. This is consistent with the pattern demonstrated above.

Higher Level of Service for Emergency Response

DOF also noted in its response there is not a statutory requirement for when to open or operate cooling and warming shelters. They also distinguish that only emergency shelters must be operated at a higher level consistent with FEMA disaster assistance policies.

This is an acknowledgement that cities and counties are required to operate a shelter at a higher level once the thresholds to do so are met and that AB 781 requires a higher level of service entirely appropriate for a state mandate reimbursement claim.

However, the important missing piece here is that the thresholds to open cooling, warming, and emergency shelters are included in emergency plans, the same emergency plans that are reviewed and filed with the California Office of Emergency Services, discussed above. Further, going back to Government Code 8610, CalOES can comment when emergency plans do not conform to the Federal Emergency Management Agencies Comprehensive Planning Guide 101 or successor document and request changes.

The DOF also argues there is no mandate to designate at least one cooling or warming center that can accommodate persons with pets regardless of whether it is practicable to do so because the determination of whether it is practicable is discretionary. We believe the bar is much higher. Government Code section 8593.10(1)(D) states: "*Whenever a city or county designates any number of emergency cooling centers,* ***it shall,*** *to the extent practicable, designate at least one cooling center that can accommodate persons with pets."* (Emphasis added). Section

8593.10(1)(E) imposes a similar requirement with respect to emergency warming centers. "Practicable" according to WexLaw Legal Information Institute means *"feasible or capable of being done"*[3] whereas WexLaw Legal Information Institute defines "discretion" as the *"power of a judge, public official or private party to act accordingly to the dictates of their own judgment and conscience within general legal principles"*[4].Clearly these terms are not synonymous and a local agency in the determination of whether to accommodate pets must contemplate how that can be practically accomplished rather than dismiss it outright. In our reading of the statute, a local agency which determines it is practicable to designate at least one cooling or warming center that can accommodate people with pets does not have discretion to simply wave away the law and choose not to make such designation.

While we disagree with DOF that it is so easy to skirt state law and not perform our obligations, if the Commission finds DOF's argument persuasive it's nevertheless clear a similar option was not provided for emergency shelters which are held to a higher standard. Thus, if the Commission does determine these portions AB781 of provision of Cooling and Warming centers that can accommodated with persons with pets are not mandated, the Commission should nevertheless rightfully determine a higher level of service is clearly required for emergency shelters.

Conclusion:

In summary, we request the Commission on State Mandates determine AB781 is a state reimbursable mandate for all relevant components including, but not limited to, the requirements for local agencies to update emergency plans and to provide a higher level of service to people with pets whenever emergency, cooling and warming shelters are opened

Thank you for your time and consideration of this response. Should you have any questions or require further clarification, please contact me at 916-874-7450 or rindec@saccounty.gov and we would be pleased to provide additional information.

I hereby certify by my signature below that the statements are made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on July 3, 2025, at Sacramento, California, by:



Chad Rinde, Director of Finance
Sacramento County Department of Finance

[3] Definition of Practicable from: https://www.law.cornell.edu/wex/practicable
[4] Definition of Discretion from: https://www.law.cornell.edu/wex/discretion

Attachment 1: Declaration of Deputy County Counsel Keith Floyd and copy of DOF Analysis on SB2778 (1990)
Attachment 2: Senate Floor Analysis on AB781 dated June 20, 2023
Attachment 3: California Office of Emergency Services (CalOES) data on Disaster Councils as of July 15, 2024

Attachment 1

DECLARATION OF KEITH W. FLOYD IN SUPPORT OF SACRAMENTO COUNTY'S TEST CLAIM 24-TC-06

I, Keith W. Floyd, declare:

1. I am presently employed by the County of Sacramento as a Deputy County Counsel and am duly licensed to practice before all courts of the State of California. My current employment duties in such capacity include assisting the Sacramento County Department of Finance with Sacramento County's Test Claim 24-TC-06.

2. I researched the history of Government Code section 8610 as part of of my review of the California Department of Finance's June 6, 2025 response letter to Sacramento County's Test Claim. The research included examining the legislative history for SB 2778 (Stats. 1990 Ch. 488) contained within the California State Archives. SB 2778 amended section 8610 in 1990 to require local disaster councils to supply copies of their disaster plans to the Office of Emergency Services.

3. A true and correct copy of the California Department of Finance's analysis of SB 2778 and accompanying Local Cost Estimate I obtained from the Governor's Chaptered Bill File maintained in the State Archives is attached as Exhibit "A" hereto. The copy features the stamp of Secretary of State, Shirley N. Weber, Ph.D., which indicates the original of the document is in the California State Archives.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and within my personal knowledge and that I could and would so testify if called as a witness in this matter.

Executed on July 3, 2025, in Sacramento, California.

Keith W. Floyd

3063498

DEPARTMENT	BILL NUMBER
Finance	SB 2778
AUTHOR	**AMENDMENT DATE**
Russell	May 2, 1990

SUBJECT

This bill would require local disaster councils to report their disaster plans to the Office of Emergency Services (OES). In addition, it would require these councils to include specific elements in their plans.

SUMMARY OF REASONS FOR SIGNATURE

This bill would provide information in local disaster plans that could be useful to OES for statewide disaster planning purposes.

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) FC 1990-91	FC 1991-92	FC 1992-93	Code Fund
0690/Office of Emergency Services	SO	No	S $1	S $2	S $2	001/GF

Impact on State Appropriations Limit--No

FISCAL SUMMARY--LOCAL LEVEL

	1990-91	1991-92	1992-93
Reimbursable Expenditures	--	--	--
Non-Reimbursable Expenditures	$1*	$2*	$2*
Revenues	--	--	--

*Unknown, minor costs.

HISTORY, SPONSORSHIP, AND RELATED BILLS

Floor Votes:

Assembly Floor: 62-0

Senate Floor: 34-0

(continued)

RECOMMENDATION — Department Director — Date

Sign — Linda O. Frink — 8/1/90

Principal Analyst — Date — Program Budget Manager — Date — Governor's Office

(631) Dean — 7/31/90 — Fred Klass — 7/31/90

Robert T. Dean — F. Klass

Position noted
Position approved
Position disapproved
by: date:

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED) Form DF-43

AUTHOR	AMENDMENT DATE	BILL NUMBER
Russell	May 2, 1990	SB 2778

ANALYSIS

A. Specific Findings

Current law allows local governments to create disaster councils by ordinance. These councils are required to develop plans for meeting any condition constituting a local emergency, state of emergency or state of war emergency.

These plans must provide for the effective mobilization of all resources within the political subdivision and include both public and private resources. Currently, there is no requirement for the Office of Emergency Services (OES) to be notified of these plans. This bill would require that a copy of each disaster plan be sent to OES.

Currently, the statutory requirements of a local disaster plan are sufficiently flexible to allow each local entity the ability to create a plan that addresses the potential risks to that area. This bill would require plans to consider earthquakes and natural or manmade disasters specific to the jurisdiction.

B. Fiscal Analysis

This bill would provide OES with additional information regarding local disaster planning. The department believes that the additional cost in receiving and reviewing local disaster plans would be minor. The Department of Finance assumes that this cost would be absorbed by OES.

The attached Local Cost Estimate has determined that this bill would not create a reimbursable state-mandated cost.

LR:BA\SB2772-0.631\2

ENROLLED BILL REPORT — Form DF-43R (Rev. 2/87 W 500)

	NO.	ISSUE DATE	BILL NUMBER
Local Cost	2	AUG 0 1 1990	SB 2778
E S T I M A T E	AUTHOR		DATE LAST AMENDED
Department of Finance	Russell		May 2, 1990

I. SUMMARY OF LOCAL IMPACT

This bill would require each local disaster council to send a copy of its disaster plan to the Office of Emergency Services. It would also require the plan to contain specified elements.

While the bill contains mandated costs, it is anticipated that these costs would be less than $200 per jurisdiction and therefore not reimbursable pursuant to Government Code Section 17564.

II. FISCAL SUMMARY--LOCAL LEVEL

	1990-91	1991-92	1992-93
	(Dollars in Thousands)		
Reimbursable Expenditures:	--	--	--
Non-Reimbursable Expenditures:	$1*	$2*	$2*
Revenues:	--	--	--

* Unknown, minor costs.

III. ANALYSIS:

A. Introduction

Current law allows local governments to create disaster councils by ordinance. These councils are required to develop plans for meeting any condition constituting a local emergency, state of emergency or state of war emergency.

These plans must provide for the effective mobilization of all resources within the political subdivision and include both public and private resources. Currently, there is no requirement for the Office of Emergency Services (OES) to be notified of these plans. This bill would require that a copy of each disaster plan be sent to OES.

Currently, the statutory requirements of a local disaster plan are sufficiently flexible to allow each local entity the ability to create a plan that addresses the potential risks to that area. This bill would require plans to consider earthquakes and natural or manmade disasters specific to the jurisdiction.

(continued)

PREPARED	Date	REVIEWED	Date	APPROVED	Date
(631)		Robert Dean	7/31/90		

AUTHOR	AMENDMENT DATE	BILL NUMBER
Russell	May 2, 1990	SB 2778

III. ANALYSIS (continued)

B. Working Data

1. Sections 17579 and 17610 of the Government Code allow the Controller to reimburse local entities from the State Mandates Claims Fund for the state-mandated local costs imposed on them by a statute if:

   a. the statute contains a statement that it mandates a new program or higher level of service and specifies that reimbursement shall be made from that fund if the statewide cost of the statute in the first year of its operation is less than one million dollars ($1,000,000); and

   b. the Commission on State Mandates develops parameters and guidelines for reimbursement of costs and certifies to the Controller that those costs are estimated to be less than one million dollars ($1,000,000).

2. Government Code Section 17564 provides that:

   No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed two hundred dollars ($200), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds two hundred dollars ($200) even if the individual school district's, direct service district's, or special district's claims do not each exceed two hundred dollars ($200).

3. The courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state". Specifically, in City of Merced v. State of California, 153 Cal. App. 3d 777 (1984), the court said:

   "We agree that the Legislature intended for payment of goodwill to be discretionary. ...whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain. If, however, the power of eminent domain is exercised, then the city will be required to pay for loss of goodwill. Thus, payment for loss of goodwill is not a state-mandated cost."

AUTHOR	AMENDMENT DATE	BILL NUMBER
Russell	May 2, 1990	SB 2778

III. ANALYSIS (continued)

B. Working Data (continued)

4. Section 17580 of the Government Code reads as follows:

> No bill, except a bill containing an urgency clause, introduced or amended on or after January 1, 1989, that mandates a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution shall become operative until the July 1 following the date on which the bill takes effect, unless the bill specifically makes this section inapplicable or contains an appropriation for the reimbursement or a specification that reimbursement be made pursuant to Section 17610.

C. Conclusion

The requirement to send a copy of the disaster recovery plan to the Office of Emergency Services would create a reimbursable mandate, but only for those jurisdictions with councils in existence on the operative date of the bill. No reimbursable mandate would exist for disaster councils established thereafter because local entities would have the option not to establish such councils. For existing disaster councils, it is believed that the additional reproduction and postage costs associated with sending a copy of a disaster plan to OES would not exceed the $200 threshold necessary to file a claim before the Commission on State Mandates pursuant to the Government Code.

Since current law requires a disaster plan to address any condition constituting a local emergency, it is assumed that to the extent earthquakes and natural or manmade disasters would be a concern, the plan would already consider these occurrences. It is believed that natural and manmade disasters are a consideration in all areas in the State; and, therefore, this bill, while clarifying current law, would not impose a new duty upon affected entities. While earthquakes are of concern in many areas in California, it is not clear that a disaster plan should be required to address this event in all areas of the State. To the extent that the risk of an earthquake is remote, the language of this bill <u>may</u> require a local entity to incur additional costs related to including consideration of an earthquake. Currently, the Department of Finance does not have sufficient information to make such a determination.

The language in Section 2 of this bill acknowledges the right of the affected entity to file a claim before the Commission on State Mandates and therefore is adequate.

The language in Section 2 also specifies that the provisions of this bill shall become operative on the same date as the effective date of this bill, rather than July 1, 1991, as specified in Government Code Section 17580.

GCBF
Ch488
1990

SECRETARY OF STATE, SHIRLEY N. WEBER, Ph.D.
The Original of This Document is in
CALIFORNIA STATE ARCHIVES
1020 "O" STREET
SACRAMENTO, CA 95814

Attachment 2

AB 781 (Maienschein) - Accessibility to emergency information and services: emergency shelters: persons with pets

Version: June 20, 2023
Urgency: No
Hearing Date: August 14, 2023

Policy Vote: G.O. 15 - 0
Mandate: Yes
Consultant: Janelle Miyashiro

Bill Summary: AB 781 requires cities and counties to update their emergency plans to designate at least one emergency shelter that can accommodate persons with pets, as specified.

Fiscal Impact: Unknown, potentially significant state reimbursable mandated costs for cities and counties to update their emergency plans, designate at least one emergency shelter able to accommodate persons with pets, and post specified information online (General Fund). There may also be significant costs for counties that do not already have an existing shelter able to safely accommodate persons with pets to provide an emergency shelter that complies with the mandates of this bill.

Background: In many homes, pets are considered to be members of the family. In the event of a disaster, people are intensely concerned about their animals. A study published in the American Journal of Epidemiology found the risk of evacuation failure during a disaster is significantly higher amongst households with an increasing number of dogs and cats. Individuals who do not heed evacuation orders risk personal injury and death, while placing first responders at greater risk. Individuals who leave pets behind are also more likely to return home before an evacuation order is lifted and experience abandonment-related trauma.

There have been several federal and state efforts to address the matter of animal welfare during emergencies:

- The Pets Evacuation and Transportation Standards (PETS) Act was a bi-partisan initiative in the United States House of Representatives requiring states seeking Federal Emergency Management Agency (FEMA) assistance to accommodate pets and service animals in their plans for evacuating residents facing disasters. The PETS Act authorizes FEMA to provide rescue, care, shelter, and essential needs for individuals with household pets and service animals, and to the household pets and animals themselves following a major disaster or emergency.

- The California Animal Response Emergency System (CARES) is an operational guidance to assist with all aspects of animal care and control in the event of a disaster or emergency. AB 450 (Yee, Chapter 604, Statutes of 2006) mandated that CARES be incorporated into the state emergency plan, and that the California Department of Food and Agriculture and Office of Emergency Services enter into a memorandum of understanding that would require them to incorporate CARES into their emergency planning.

- AB 1648 (Maienschein, Chapter 547, Statutes of 2022) requires any city or county, as a condition of obtaining a kennel license or permit, that the kennel owner create and submit to the city or county an animal natural disaster evacuation plan.

Additionally, the American Red Cross issued new doctrine on July 21, 2022 supporting the acceptance of household pets of shelter residents at a Red Cross managed shelter. A letter to facility managers for Red Cross locations notes that it will work with local and state organizations to identify a lead agency that specializes in animal welfare and who could secure and manage the necessary trained workforce to support pet services at each shelter and may co-locate household pets to support pet services at each shelter. When co-locating pet sheltering is not possible due to space limitations, the Red Cross further notes it will partner with the liaison community to determine a reasonable solution.

Proposed Law:

- Requires, upon the next update of a city or county's emergency plan:
    - A county update its emergency plan to designate emergency shelters able to accommodate persons with pets.
    - A city that has previous adopted an emergency plan designating emergency shelters, to update that plan to be able to accommodate persons with pets.
    - A city or county to designate at least one emergency shelter, emergency cooling center, and emergency warming center that can accommodate persons with pets whenever designating any number of emergency shelters, emergency cooling centers, and emergency warming centers.
- Requires an emergency shelter designated as able to accommodate persons with pets to be in compliance with both of the following:
    - Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.
    - Applicable disaster assistance policies and procedures of FEMA.
- Requires information provided to the public regarding the availability of a cooling or warming center to include whether that center can accommodate pets.
- Requires a city or county to make information for pet emergency preparedness available on its internet website, including but not limited to the following:
    - Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and FEMA.
    - Local organizations that may provide emergency pet assistance.
    - Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets.

- Defines “pet” as a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.

- States legislative findings and declarations.

-- END --

Attachment 3

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Alameda	03/25/1853	12/19/46	07/09/91		11/28/50		07/02/46	
Alameda	04/19/1854	06/24/47	09/05/72		12/19/50		01/22/47	06/22/16
Albany	09/22/1908	06/24/47	10/09/73	11/01/95	12/19/50		10/02/50	
Berkeley	04/01/1878	12/19/46	10/08/74	03/29/16	12/12/50		12/11/46	
Dublin	02/01/1982	09/29/03	01/14/85		06/13/83		02/18/03	
Emeryville	12/08/1896	06/16/49	08/30/65	07/11/17	12/11/50		03/15/48	
Fremont	01/23/1956	02/01/57	10/02/73		05/29/56		05/29/56	
Hayward	03/11/1876	11/29/50	05/22/90		12/04/50		07/28/59	
Livermore	04/01/1876	04/27/48	01/17/72		12/04/50		02/04/57	06/10/85
Newark	09/22/1955	02/01/57	05/11/72	10/03/13	01/10/57		01/10/57	
Oakland	05/04/1852	12/19/46	03/16/76	06/23/92	12/12/50		07/25/46	
Piedmont	01/31/1907	04/27/48	07/03/72		12/07/50		03/04/48	
Pleasanton	06/13/1894	06/16/49	05/01/72		05/13/51		05/13/57	
San Leandro	03/21/1872	04/27/48	06/28/71	07/06/71	12/04/50		03/01/48	
Union City	01/26/1959	12/12/60	03/19/73		09/19/60		09/16/60	
Alpine	03/16/1864	12/19/46	10/05/70		12/02/03		12/04/03	
Amador	05/11/1854	06/24/47	02/05/51	11/14/95	04/01/63		04/01/63	
Amador	06/02/1915	06/15/51	05/09/51		12/13/50		05/09/51	
Ione	03/23/1953	01/26/54	12/21/64		12/16/53		12/16/53	
Jackson	12/14/1905	06/15/51	12/21/64		12/21/64		12/21/64	
Plymouth	02/08/1917	06/15/51	05/03/51		07/20/51		05/03/51	
Sutter Creek	02/11/1913	09/12/50	08/21/50		12/04/50		08/21/50	
Butte	02/18/1850	12/19/46	01/30/73	04/21/92	11/27/50		08/23/46	
Biggs	06/26/1903	06/15/51	07/10/72	04/15/74	12/04/50		09/11/50	
Chico	01/08/1872	09/12/50	01/16/51	03/08/62	12/05/50		08/01/50	
Gridley	11/23/1905	06/16/49	04/02/73		12/04/50		05/17/48	
Oroville	01/03/1906	06/24/47	05/04/88		12/04/50		07/19/88	
Paradise	11/27/1979	10/08/85	12/06/83		11/16/82		12/06/83	
Calaveras	02/18/1850	09/12/50	11/17/75		12/04/50		04/22/63	
Angels Camp	01/24/1912	11/29/50	12/02/58		12/05/50		08/01/50	
Colusa	02/18/1850	12/19/46	10/01/85		12/04/50		08/17/50	
Colusa	04/04/1870	06/15/51	09/26/72		02/19/51		06/04/51	
Williams	05/19/1920	06/15/51	06/04/73		06/05/59		04/24/51	
Contra Costa	02/18/1850	12/19/46	10/19/82		11/27/50		09/04/46	
Antioch	02/06/1872	06/16/49	06/26/73	09/12/54	12/11/50		03/08/54	
Brentwood	01/21/1948	09/12/50	03/13/51	02/10/76	12/19/50		07/11/50	
Clayton	03/18/1964	10/27/83	02/07/73		07/07/82		07/07/82	
Concord	02/09/1905	09/12/50	08/02/71		03/24/58		03/05/84	
Danville	07/01/1982	10/08/85	03/04/85		02/21/85		02/21/85	
El Cerrito	08/23/1917	06/16/49	05/19/75		12/04/50		01/03/49	
Hercules	12/15/1900	06/23/52	04/24/52		12/28/50		08/11/50	
Lafayette	07/22/1968	08/14/69	06/11/69		06/11/69		06/11/69	
Martinez	04/01/1864	06/16/49	01/06/71		12/06/50		04/06/49	
Moraga	11/12/1974	10/08/85	01/18/84		01/04/84		01/04/84	
Oakley	07/01/1999	04/23/10	03/09/10	04/13/10	03/23/10		02/23/10	
Orinda	07/01/1985	08/16/89	11/24/86		08/26/86		08/26/86	
Pinole	06/25/1903	06/16/49	09/17/73		12/04/50		07/06/48	
Pittsburg	06/25/1903	05/01/51	09/08/59		12/04/50		01/06/86	
Pleasant Hill	11/16/1961	07/11/62	01/02/73		04/02/62		07/13/64	

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Richmond	08/16/1905	06/24/47	04/30/73	06/04/84	12/11/50		12/30/46	
San Pablo	04/27/1948	09/12/50	02/05/51		12/04/50		07/10/50	
San Ramon	07/01/1983	08/16/89	12/23/85		12/10/85		12/10/85	
Walnut Creek	10/20/1914	11/29/50	02/07/72		12/06/50		09/06/50	
Del Norte	03/02/1857	06/24/47	03/22/76		12/12/50		04/15/47	
Crescent City	04/13/1854	06/16/49	05/10/76		12/11/50		10/11/48	
El Dorado	02/18/1850	12/19/46	07/22/75		12/04/50		12/03/46	
Placerville	05/13/1854	11/29/50	04/19/66		12/04/50		09/18/50	
South Lake Tahoe	03/30/1965	09/14/67	01/18/72		12/06/66		12/06/66	
Fresno	04/19/1856	04/27/48	12/05/78		12/05/50		09/23/47	
Clovis	02/27/1912	06/16/49	08/02/76		12/18/50		01/06/47	
Coalinga	04/03/1906	03/01/51	04/19/71		12/04/50		12/18/50	
Firebaugh	09/17/1914	01/26/54	07/22/74		11/27/50		07/15/53	
Fowler	06/15/1908	05/05/44	07/18/50		12/05/50		09/19/50	
Fresno	10/15/1885	09/12/50	01/13/87		11/30/50		09/28/50	
Huron	05/03/1951	01/26/54	06/20/79		06/03/53		06/03/53	
Kerman	07/02/1946	05/01/51	02/26/51		11/27/50		03/26/51	
Kingsburg	05/19/1908	06/20/55	09/05/72		07/16/51		07/19/54	
Mendota	06/17/1942	06/15/51	05/22/51		04/10/51		04/10/51	
Orange Cove	01/20/1948	11/29/50	08/15/50		12/04/50		10/02/50	
Parlier	11/15/1921	11/29/50	10/19/72		12/07/50		08/17/50	
Reedley	02/18/1913	06/15/51	05/18/71		12/05/50		05/15/51	
San Joaquin	02/14/1920	01/23/52	05/21/51		07/20/53		10/15/51	
Sanger	05/09/1911	05/01/51	03/07/51		12/06/50		04/04/51	
Selma	03/15/1893	07/07/50	09/01/71		12/04/50		04/17/50	
Glenn	03/11/1891	03/01/51	09/26/72		01/07/57		12/18/50	
Orland	11/11/1909	06/15/51	02/24/72		12/04/50		05/07/51	
Willows	01/16/1886	05/01/51	01/10/72		12/04/50		09/25/50	
Humboldt	05/12/1853	03/07/50	01/16/74		12/01/50		06/27/49	
Arcata	02/02/1858	11/29/50	03/05/75		12/01/50		10/06/50	
Blue Lake	04/23/1910	01/23/52	04/09/51		12/11/50		11/03/48	
Eureka	04/18/1856	03/07/50	06/03/75		12/26/50		06/07/49	
Ferndale	08/28/1893	06/16/49	12/07/48		01/02/51		12/07/48	
Fortuna	02/20/1906	03/07/50	11/19/73		01/06/51		07/05/49	
Rio Dell	02/26/1965	10/27/65	11/01/83		07/20/65	10/18/83	10/18/83	
Trinidad	11/07/1870	01/27/58	09/09/57		11/04/57		11/04/57	
Imperial	08/15/1907	12/19/46	05/31/73	03/29/90	12/04/50		02/06/73	
Brawley	04/16/1908	03/07/50	02/20/73		12/04/50		02/05/73	
Calexico	04/16/1908	09/12/50	10/21/86		12/05/50		09/19/50	
Calipatria	02/28/1919	04/30/57	02/13/73		03/19/59		04/09/57	
El Centro	04/16/1908	06/24/47	10/17/84		12/06/50		04/11/73	
Holtville	07/01/1908	11/29/50	11/23/54		12/13/50		09/20/50	
Imperial	07/12/1904	03/07/50	02/14/73		12/13/50		02/23/50	
Westmorland	06/30/1934	11/29/50	02/26/73		12/11/50		10/30/50	
Inyo	03/22/1856	12/19/46	08/07/72		12/05/50		11/08/50	
Bishop	05/06/1903	11/29/50	09/11/73		12/11/50		11/10/75	
Kern	04/02/1866	06/12/46	04/26/90	11/26/92	12/04/50		05/27/46	
Arvin	12/21/1960	10/18/61	06/12/61		02/12/73	04/26/76	07/10/61	

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Bakersfield	01/11/1898	06/16/49	05/27/68	08/27/73	12/04/50		08/09/48	
California City	12/08/1965	12/09/66	07/18/66		07/18/66		07/18/66	
Delano	04/13/1915	11/29/50	06/05/72		12/04/50		10/16/50	
Maricopa	07/25/1911	11/29/50	03/12/51		12/11/50		08/28/50	
McFarland	07/18/1957	06/25/58	05/21/58		05/21/58		05/21/58	
Ridgecrest	11/29/1963	10/08/85	01/03/74		06/11/73		12/05/83	
Shafter	01/20/1938	06/24/47	05/12/69		12/13/50		08/14/50	
Taft	11/22/1910	11/29/50	08/20/79		04/02/51		08/21/50	
Tehachapi	08/13/1909	11/29/50	12/18/72		12/04/50		10/02/50	
Wasco	12/22/1945	06/16/49	08/06/48		04/01/51		04/30/47	
Kings	03/22/1893	06/24/47	06/15/82		12/12/50		02/06/47	
Avenal	09/08/1979	06/16/82	05/27/82		05/13/82		05/13/82	
Corcoran	08/06/1907	06/16/49	11/15/82		12/04/50		04/04/49	
Hanford	08/12/1891	06/24/47	02/15/83		02/13/51		05/26/46	
Lemoore	08/04/1900	05/01/51	05/18/82		03/05/51		06/01/51	
Lake	05/20/1861	04/27/48	12/06/71	11/07/89	11/27/50		12/02/47	
Clear Lake	11/14/1980	02/26/87	12/02/85		12/02/85		12/02/85	
Lakeport	04/30/1888	06/15/51	06/19/72		12/05/50	09/02/52	04/16/51	
Lassen	04/01/1864	12/19/46	01/08/73		12/04/50		09/05/50	
Susanville	08/24/1900	05/01/51	06/15/70	02/05/73	07/23/56		04/23/51	
Los Angeles	02/18/1850	06/12/46	09/01/89		12/12/50		07/09/46	
Agoura Hills	11/08/1982	10/08/85	09/21/83		05/04/83		05/04/83	
Alhambra	07/11/1903	06/24/47	09/11/74		12/05/50		02/04/47	
Arcadia	08/05/1903	06/16/49	07/06/71		12/05/50		07/20/48	
Artesia	05/29/1959	11/09/59	07/09/79		08/03/59		09/14/59	
Avalon	06/26/1913	11/29/50	10/15/79		12/07/50		09/22/50	
Azusa	12/29/1898	06/16/49	09/16/85		12/04/50		04/04/83	
Baldwin Park	01/25/1956	05/24/57	03/15/67		11/05/56		02/18/57	
Bell	11/07/1927	06/24/47	06/20/83		12/04/50		12/16/46	04/15/74
Bell Gardens	08/01/1961	08/05/65	11/13/61		07/26/65		07/26/65	
Bellflower	09/03/1957	01/16/63	04/25/77		10/31/62		10/31/62	12/09/96
Beverly Hills	01/29/1914	06/24/47	12/08/90		04/29/52		01/21/47	
Bradbury	07/26/1957	12/12/60	06/08/67	12/15/81	11/01/60		11/01/60	
Burbank	07/15/1911	12/19/46	01/23/73		12/12/50		06/18/46	
Calabasas	04/05/1991	03/01/94	11/20/91		11/06/91		11/06/91	
Carson	02/19/1968	08/14/69	12/15/75		04/21/69		04/21/69	
Cerritos	04/24/1956	04/15/68	12/13/67	05/02/79	11/01/67		11/01/67	
Claremont	10/03/1907	06/24/47	11/14/72		12/05/50	12/11/84	12/11/84	
Commerce	01/28/1960	04/10/63	02/04/85		02/05/62		02/05/62	
Compton	05/11/1888	06/16/49	04/08/80		11/28/50		12/05/50	
Covina	08/14/1901	09/12/50	09/05/72		12/04/50		09/18/50	
Cudahy	11/10/1960	10/08/85	06/04/84		05/07/84		05/07/84	
Culver City	09/20/1917	06/16/49	03/22/71		12/11/50		06/05/89	
Diamond Bar	04/18/1989	01/28/92	05/21/91		04/18/89		05/07/91	
Downey	12/17/1956	06/25/58	05/08/79		05/26/58		05/26/58	
Duarte	08/22/1957	11/09/59	03/09/71		12/08/58		12/08/58	
El Monte	11/18/1912	06/16/49	12/05/72		12/04/50		12/06/48	
El Segundo	01/18/1917	06/16/49	01/04/77		11/29/50		10/27/48	
Gardena	09/11/1930	06/24/47	06/05/67	07/10/79	11/28/50		12/16/46	
Glendale	02/15/1906	12/19/46	07/27/71		11/16/50		07/30/46	
Glendora	11/13/1911	11/29/50	08/10/71		11/28/50		01/14/92	
Hawaiian Gardens	04/09/1964	03/22/73	09/12/72		03/27/73		08/22/72	

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Hawthrone	07/12/1922	06/16/49	01/12/81		11/28/50		12/12/50	
Hermosa Beach	01/10/1907	06/24/47	01/11/77		12/05/50		04/15/47	
Hidden Hills	10/19/1961	01/09/79	02/17/86		03/07/78		03/07/78	
Huntington Park	09/01/1906	06/12/46	06/27/77		12/04/50		05/06/46	
Industry	06/18/1957	12/15/98	12/01/86	08/27/98	08/27/98		08/27/98	
Inglewood	02/14/1908	06/16/49	06/04/85		11/28/50		06/22/48	
Irwindale	08/06/1957	04/10/63	10/09/75		11/27/62		11/27/62	
La Canada Flintridge	11/30/1976	01/09/72	06/20/77		06/20/77		11/20/78	
La Habra Heights	12/04/1978	11/14/79	06/21/79		12/11/73	06/07/79	06/07/79	
La Mirada	03/23/1960	10/31/63	08/09/77		09/24/63		09/24/63	
La Puente	11/21/1977	12/04/61	03/13/90		11/14/61		11/14/61	
La Verne	08/20/1906	06/16/49	04/04/77		12/04/50		11/01/48	
Lakewood	04/16/1954	08/14/59	02/05/74		06/09/59		06/09/59	
Lancaster	11/21/1977	11/14/79	09/03/85		08/06/79		08/06/79	
Lawndale	12/28/1959	04/25/66	09/20/76		01/16/61		09/20/76	
Lomita	06/25/1964	01/14/65	10/25/76		11/09/64		10/04/76	
Long Beach	12/13/1897	12/19/46	11/09/71		12/19/50		03/06/51	
Los Angeles	04/04/1850	12/19/46	07/25/89		02/26/51		07/01/46	
Lynwood	07/16/1921	06/16/49	05/06/80		12/05/50		10/19/48	
Malibu	03/28/1991	03/01/94	07/16/91		12/17/91		12/17/91	
Manhattan Beach	12/07/1912	06/16/49	11/16/71	09/07/76	12/05/50		09/07/76	
Maywood	09/02/1924	06/24/47	01/09/51	03/26/91	11/28/50		05/27/47	
Monrovia	12/15/1887	06/16/49	09/20/83		12/04/50		09/06/83	
Montebello	10/16/1920	12/19/46	05/08/90		12/04/50		06/17/46	
Monterey Park	05/29/1916	07/07/50	07/10/89		12/11/50		03/13/50	
Norwalk	08/26/1957	10/18/61	04/10/72		02/08/60		02/08/60	
Palmdale	08/24/1962	05/24/63	11/02/62	03/14/85	03/15/63		03/15/63	
Palos Verdes Estates	12/20/1939	04/30/57	12/14/76		11/29/56		02/26/57	
Paramount	01/30/1957	05/08/59	07/14/77		04/21/59		04/21/59	
Pasadena	06/19/1886	06/24/47	02/01/72		01/30/51		04/22/47	
Pico Rivera	01/29/1958	06/24/59	12/17/79		06/01/59		06/01/59	
Pomona	01/06/1888	06/12/46	05/16/83		12/05/50		04/25/50	
Rancho Palos Verdes	09/04/1973	11/25/74	09/17/74		09/03/74		09/03/74	
Redondo Beach	04/29/1882	11/29/50	02/14/77		12/11/50		03/28/77	
Rolling Hills	01/24/1957	08/14/59	08/07/74		07/13/59		07/13/59	
Rolling Hills Estates	09/18/1957	10/31/63	08/11/71		06/10/59		06/10/59	
Rosemead	08/04/1959	04/25/66	07/13/76		09/23/59		09/23/59	
San Dimas	08/04/1960	04/10/63	11/24/75		01/14/63		02/23/76	
San Fernando	08/31/1911	09/12/50	06/29/73		12/04/50		07/05/49	
San Gabriel	08/24/1913	06/16/49	08/03/71		12/12/50		10/19/48	
San Marino	04/25/1913	11/29/50	05/09/51	06/14/89	12/13/50		04/27/49	
Santa Clarita	12/15/1987	08/16/89	07/11/89		06/13/89		06/13/89	
Santa Fe Springs	05/15/1957	06/24/59	08/08/77		05/28/59		05/28/59	
Santa Monica	12/09/1896	12/19/46	09/26/78		12/12/50		11/28/61	
Sierra Madre	02/07/1907	06/16/49	11/12/69	10/27/81	12/12/50		04/12/49	
Signal Hill	04/22/1924	06/24/47	06/19/79		12/04/50		03/19/51	
South El Monte	07/30/1958	09/03/64	09/19/61	07/01/76	07/21/64		10/17/61	
South Gate	01/20/1923	06/16/49	08/13/84		11/27/50		11/29/48	
South Pasadena	03/02/1888	06/24/47	08/18/71		11/30/50		01/08/47	
Temple City	05/25/1960	09/14/67	12/01/80		06/21/66		04/18/67	
Torrance	05/12/1921	09/12/50	04/15/75	08/09/11	12/12/50		09/11/73	
Vernon	09/22/1905	07/16/51	03/18/80		04/18/51		05/01/51	
Walnut	01/19/1959	08/14/59	06/08/83		06/15/59		06/15/59	
West Covina	02/17/1923	11/29/50	02/11/80		05/25/51		08/27/79	
West Hollywood	11/29/1984	02/26/87	10/20/86		09/18/86		09/18/86	
Westlake Village	12/11/1981	10/08/85	12/20/84		11/14/84		11/14/84	

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Whittier	02/25/1898	06/16/49	09/20/83		11/28/50		11/08/48	
Madera	03/11/1893	09/12/50	03/28/72	04/09/91	12/07/50		07/05/50	
Chowchilla	02/07/1923	03/01/51	09/07/66		01/05/51		02/01/51	
Madera	03/27/1903	09/12/50	09/18/78		11/28/50		09/18/50	
Marin	02/18/1850	12/19/46	12/14/82		12/11/50		12/09/46	
Belvedere	12/24/1896	09/12/50	11/01/71		12/04/50		08/07/50	
Corte Madera	06/10/1916	07/16/51	01/03/72		05/19/58		05/19/58	
Fairfax	03/02/1931	06/16/49	03/12/73		12/08/50		12/10/48	
Larkspur	03/01/1908	05/01/51	12/01/71		12/06/50		01/03/51	
Mill Valley	09/01/1900	06/16/49	03/06/72		12/06/50		01/19/49	
Novato	01/20/1960	06/30/72	12/07/71		12/07/71		12/07/71	
Ross	08/21/1908	09/12/50	04/08/71		12/14/50		05/11/50	
San Anselmo	04/09/1907	06/24/47	01/25/72		12/12/50		04/08/47	
San Rafael	02/18/1874	06/16/49	01/15/73		12/04/50		03/22/55	
Sausalito	09/04/1893	09/12/50	10/19/71		12/05/50		07/25/50	
Tiburon	06/23/1964	12/09/66	12/13/71		10/10/66		10/10/66	
Mariposa	02/18/1850	05/01/51	05/24/83		01/05/51	12/06/88	10/25/50	
Mendocino	02/18/1850	12/19/46	03/24/87		12/01/50		01/22/51	
Fort Bragg	08/05/1889	09/12/50	10/26/81	11/09/81	04/09/51		08/16/50	
Point Arena	07/11/1908		07/26/05		12/05/50			
Ukiah	03/08/1876	09/12/50	09/19/73		12/06/50		08/16/50	
Willits	11/19/1888	05/01/51	05/25/83		11/27/50		02/19/51	
Merced	04/19/1855	09/12/50	11/20/90		08/26/58		08/26/58	09/20/72
Atwater	08/16/1922	06/15/51	11/26/62		12/06/50		04/04/51	
Dos Palos	05/04/1935	06/15/51	03/20/51		04/17/51		04/17/51	
Gustine	11/11/1915	09/12/50	03/05/51		12/04/50		08/07/50	
Livingston	09/13/1922	03/01/51	08/07/50		12/04/50		01/16/51	
Los Banos	05/08/1907	06/16/49	01/19/49		01/17/51		01/19/49	
Merced	04/03/1889	11/29/50	01/15/51		12/04/50		11/04/46	
Modoc	02/17/1874	06/24/47	05/19/86	03/20/89	03/04/57		08/21/50	05/19/86
Alturas	09/16/1901	01/27/58	06/11/56		07/09/56		07/09/56	
Mono	04/24/1861	06/16/49	12/10/85		12/04/50		11/22/83	
Mammoth Lakes	03/21/1893	02/26/87	11/20/85		11/06/85		11/06/85	
Monterey	02/18/1850	12/19/46	06/05/90		11/27/50		07/15/46	
Carmel-By-The-Sea	10/31/1916	06/16/49	05/14/79		12/06/50	02/06/63	05/07/79	
Del Rey Oaks	09/03/1953	12/09/66	05/27/75		01/24/55		02/28/55	
Gonzales	01/14/1947	05/01/51	05/05/75		12/05/50		04/03/51	
Greenfield	01/07/1947	03/01/51	04/16/74		12/19/50	03/17/70	03/17/70	
King City	02/09/1911	06/16/49	02/07/51		12/06/50	05/12/70	05/12/70	
Marina	11/12/1975	05/13/77	10/25/76		10/11/76		10/11/76	
Monterey	06/14/1889	06/16/49	12/20/71		12/05/50		09/19/78	
Pacific Grove	07/05/1889	06/16/49	03/21/90		12/20/50		01/05/49	
Salinas	03/04/1874	06/16/49	03/01/71		12/04/50		01/17/49	
Sand City	05/31/1960	10/27/83	07/20/82		07/20/82		07/20/82	
Seaside	10/13/1954	03/15/55	04/20/72		11/18/54		01/20/55	
Soledad	03/09/1921	06/16/49	04/10/51		12/12/50		04/10/51	
Napa	02/18/1850	06/16/49	09/19/72		03/11/52		01/11/49	06/13/67

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American Canyon	01/01/1992	11/21/97	08/07/97		08/21/97		08/21/97	
Calistoga	01/06/1886	06/15/51	11/01/88		12/01/50		12/01/50	
Napa	03/23/1872	06/16/49	11/05/73		12/18/50		05/09/49	
Saint Helena	03/24/1876	06/16/49	01/23/73		11/28/50		08/10/48	
Yountville	02/01/1965		03/04/03		02/04/03		02/04/03	
Nevada	04/25/1851	03/01/51	11/28/89		01/02/51		01/02/51	
Grass Valley	04/15/1861	09/12/50	11/28/72		12/12/50		07/25/50	
Nevada City	04/19/1856	06/15/51	04/12/51		04/12/51		04/13/51	
Truckee	03/23/1993		06/03/93					
Orange	03/11/1889	12/19/46	02/24/87		11/28/50		11/19/46	
Aliso Viejo	07/01/2001	10/23/02	06/05/02		06/05/02		06/05/02	
Anaheim	03/18/1878	06/19/49	09/27/77		11/28/50		04/07/59	
Brea	02/23/1917	06/16/49	04/20/76		12/06/50		05/03/83	
Buena Park	01/27/1953	03/15/55	09/21/87		12/29/53		09/05/78	
Costa Mesa	06/29/1953	03/15/55	11/03/80		04/19/54		04/19/54	
Cypress	07/24/1956	01/27/58	10/21/57		10/21/57		10/28/91	
Dana Point	01/01/1989	03/06/07	04/17/16	04/17/16	01/22/03		01/22/03	04/19/16
Fountain Valley	06/13/1957	04/10/63	02/04/92		12/14/59		01/21/92	
Fullerton	02/15/1904	12/19/46	03/06/51		11/28/50		05/21/46	
Garden Grove	06/18/1956	01/27/58	06/22/71	06/24/75	11/26/57		11/26/57	
Huntington Beach	02/17/1909	06/16/49	11/17/80		02/05/51		06/07/76	
Irvine	12/28/1971	12/07/77	04/26/77	03/26/91	04/12/77		04/12/77	
La Habra	01/20/1925	03/01/51	11/06/73		12/05/50		12/11/73	
La Palma	10/26/1955	01/27/58.	11/04/57		10/07/57		10/07/57	
Laguna Beach	06/29/1927	06/24/47	09/06/72		12/06/50		12/04/46	
Laguna Hills	12/20/1991	12/15/98	10/28/97		10/14/97		10/14/97	
Laguna Nigel	12/01/1989	12/17/98	06/21/94		06/06/90		04/16/93	12/01/98
Laguna Woods	03/24/1999	09/29/03	12/18/02		11/20/02		11/20/02	
Lake Forest	12/20/1991	12/02/99	08/02/94		02/16/99		02/04/92	02/16/99
Los Alamitos	03/01/1960	04/15/68	08/28/72		11/14/67		08/14/72	
Mission Viejo	03/31/1988	01/28/92	12/09/91		06/26/89		06/26/89	
Newport Beach	09/01/1906	12/19/46	10/09/73		12/26/50	12/10/73	12/10/73	
Orange	04/06/1888	06/16/49	08/28/73		12/05/50		08/21/73	
Placentia	12/02/1926	06/16/49	11/06/73		12/05/50		11/16/48	05/19/81
Rancho Santa Margarita	01/01/2000	08/23/04	09/18/03		09/04/03		09/04/03	
San Clemente	02/28/1928	06/16/49	11/01/72		12/06/50	11/01/72	11/01/72	
San Juan Capistrano	04/19/1961	06/30/70	10/23/61		10/23/61		10/23/61	
Santa Ana	06/12/1886	06/16/49	03/19/84		12/21/50		01/07/74	
Seal Beach	10/27/1915	06/16/49	08/21/67		12/27/50		11/25/74	
Stanton	06/04/1956	05/23/58	11/27/72		03/24/58		03/24/58	
Tustin	09/21/1927	06/16/49	04/21/75		12/04/50	06/15/59	04/07/75	
Villa Park	01/11/1962	12/07/77	07/21/77		06/16/77		11/17/77	
Westminster	03/27/1957	01/27/58	09/12/72		12/02/57		08/22/72	
Yorba Linda	11/02/1967	06/30/70	05/17/82		01/15/68		05/03/82	
Placer	04/25/1851	03/07/50	11/16/90		01/22/51		12/13/49	
Auburn	05/02/1888	06/16/49	01/25/72		12/14/50		07/21/48	
Colfax	02/23/1910	12/19/46	11/26/46		04/24/51		11/26/46	
Lincoln	08/07/1890	09/12/50	09/14/71		11/28/50		09/12/50	
Loomis	12/17/1984	11/20/06	12/10/96		10/13/04		10/12/04	
Rocklin	02/24/1893	03/01/51	12/20/71		04/16/51		10/09/50	
Roseville	04/10/1909	06/24/47	10/20/71		12/13/50		04/23/47	

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Plumas	03/18/1854	12/19/46	11/09/76		12/04/50		01/03/51	
Portola	05/16/1946	11/29/50	03/26/73		12/01/50		08/24/50	
Riverside	03/11/1893	12/19/46	11/15/88		12/04/50		12/09/46	
Banning	02/06/1913	07/07/50	06/12/90		11/28/50		12/14/48	
Beaumont	11/18/1912	12/19/46	01/13/75		01/24/51		08/28/46	
Blythe	07/21/1916	03/01/51	11/23/71		04/10/51		02/06/51	
Calimesa	12/01/1990	12/15/98	04/20/91	04/05/93	12/01/90		04/05/93	
Canyon Lake	12/01/1990	11/21/97	12/16/92		01/06/93		01/06/93	
Cathedral City	11/16/1981	10/08/85	01/18/84	02/10/10	01/04/84		01/04/84	
Coachella	12/13/1946	11/29/50	03/21/72		04/02/58		06/18/58	
Corona	07/13/1896	12/19/46	11/20/90		12/05/50		09/07/65	
Desert Hot Springs	09/24/1963	02/24/64	10/08/87		02/19/64		09/15/87	
Eastvale	10/01/2010	10/18/13	12/14/11		08/24/11		11/09/11	
Hemet	01/20/1910	06/16/49	09/25/94		12/04/50		11/01/48	
Indian Wells	07/07/1967	03/30/72	09/08/67		08/01/74		08/01/74	
Indio	05/16/1930	09/12/50	11/03/71		07/17/63		08/02/50	
Jurupa Valley	07/01/2011							
Lake Elsinore	04/20/1988	06/16/49	06/27/77		12/11/50		10/18/48	
La Quinta	05/01/1981	10/08/85	02/07/84		01/17/84		01/17/84	
Menifee	10/01/2008	01/05/10	06/02/09		05/20/09		05/20/09	
Moreno Valley	12/03/1984	03/01/94	08/13/91		06/25/91		06/25/91	
Murrieta	07/01/1991	03/01/94	02/04/92		11/05/91		11/05/91	
Norco	12/23/1964	06/19/67	07/03/72		03/20/67		03/20/67	
Palm Desert	12/16/1973	05/13/77	04/08/76		09/11/75		02/26/76	
Palm Springs	04/20/1938	12/19/46	07/06/83		12/06/50		08/06/80	
Perris	05/26/1911	09/12/50	08/12/68		12/01/50		08/04/50	
Rancho Mirage	07/17/1973	04/08/75	02/06/75		08/01/74		08/01/74	
Riverside	10/11/1883	04/27/48	06/02/87		12/19/50		12/19/72	
San Jacinto	04/20/1888	11/29/50	09/08/70		12/19/50		10/24/50	
Temecula	12/01/1989	11/21/97	08/27/91		02/23/93		02/23/93	
Wildomar	07/01/2008	02/28/10	01/27/10		04/22/09		01/13/10	
Sacramento	02/18/1850	12/19/46	10/01/73		12/06/50		08/16/50	
Citrus Heights	01/01/1997							
Elk Grove	07/01/2000	01/05/11	10/27/10		06/28/06	10/13/10	10/13/10	
Folsom	04/20/1946	11/29/50	12/17/70		12/06/50		09/01/50	
Galt	08/16/1946	09/12/50	08/30/63		11/28/50		05/31/50	
Isleton	05/14/1923	06/16/49	06/02/75		12/04/50		12/06/48	
Rancho Cordova	11/05/2002							
Sacramento	02/27/1850	06/24/47	04/21/81		12/07/50		12/27/46	
San Benito	02/12/1874	12/19/46	02/03/86		12/04/50		10/09/50	
Hollister	03/26/1874	01/23/52	05/20/74		12/18/50		12/18/50	
San Juan Bautista	05/04/1896	06/24/47	12/23/41		12/05/50		12/15/46	
San Bernardino	04/26/1853	12/19/46	01/09/84	06/08/04	01/08/51		10/01/72	08/06/13
Adelanto	12/22/1970	03/30/72	01/26/72		01/12/72	11/09/93	01/12/72	
Apple Valley	11/28/1988	01/28/92	10/31/89		11/27/90		11/27/90	
Barstow	09/30/1947	06/16/49	03/20/78		04/02/51	07/17/78	03/06/78	
Big Bear Lake	11/24/1980	06/16/82	01/13/82		01/27/82		01/27/82	
Chino	03/05/1910	06/16/49	08/05/86		12/19/50		11/05/48	
Chino Hills	12/01/1991	11/21/97	10/11/94		06/14/94		09/27/94	
Colton	07/20/1887	06/16/49	03/16/71		12/19/50		12/20/84	
Fontana	06/25/1952	02/28/53	05/19/87		03/02/54		05/03/83	
Grand Terrace	11/30/1978	06/27/79	01/18/79		01/18/79		01/18/79	

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	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Hesperia	05/23/1988	04/18/90	08/17/89		07/01/88		08/17/89	
Highland	11/23/1987	03/12/90	08/08/89		07/25/89		07/25/89	
Loma Linda	09/29/1970	05/13/77	12/13/76		05/23/72		12/13/76	
Montclair	04/25/1956	04/30/57	09/17/56	05/16/83	02/04/57		05/16/83	
Needles	10/30/1913	06/15/51	04/17/51		12/05/50		04/17/51	
Ontario	12/10/1891	06/16/49	07/18/89		12/04/50		11/21/89	
Rancho Cucamonga	11/22/1977	06/16/82	05/21/80		12/02/77		04/07/82	
Redlands	12/07/1888	04/27/48	02/01/72		01/18/72		01/18/72	
Rialto	11/17/1911	03/07/50	12/08/77		09/20/71		09/20/71	
San Bernardino	08/10/1869	06/16/49	06/29/71	10/17/90	02/19/51		06/20/82	
Twentynine Palms	11/23/1987	08/16/89	11/08/88		12/02/87		10/25/88	
Upland	05/15/1906	04/27/48	07/06/71	09/02/80	12/07/50		09/02/80	
Victorville	09/21/1962	07/19/63	11/03/87		07/10/63		02/15/83	
Yucaipa	11/27/1989	12/05/97	10/06/97		12/01/89		10/06/97	
Yucca Valley	11/27/1991	10/23/02	11/27/91	05/13/02	08/01/02		06/06/02	
San Diego	02/18/1850	12/19/46	05/12/81		12/11/50		09/03/46	
Carlsbad	07/16/1952	01/26/54	01/02/73		07/21/53		07/21/53	
Chula Vista	10/26/1911	06/16/49	08/01/72		04/10/51		07/29/82	
Coronado	07/13/1896	12/19/46	08/15/72		12/05/50		11/08/50	
Del Mar	07/15/1959	10/18/61	12/04/72		12/01/60		01/30/61	
El Cajon	11/20/1912	06/24/47	01/16/73		12/18/50		10/09/50	
Encinitas	10/01/1986	11/10/87	07/13/87	06/28/89	07/27/87		07/27/87	
Escondido	10/08/1888	11/29/50	09/13/72		12/06/50		10/04/50	
Imperial Beach	07/18/1956	06/30/58	07/18/72		04/02/57		02/23/50	04/02/57
La Mesa	02/16/1912	09/12/50	03/13/51		11/28/50		06/08/82	
Lemon Grove	07/01/1977	01/09/79	11/20/78		11/06/78		12/05/78	
National City	07/28/1887	06/16/49	11/14/72		12/05/50		11/08/50	
Oceanside	07/12/1888	06/16/49	05/23/73		12/13/50		11/10/48	
Poway	12/01/1980	03/10/82	11/10/81		11/10/81		11/10/81	
San Diego	03/27/1850	12/19/46	02/05/74		12/05/50		08/13/46	
San Marcos	01/28/1963	07/19/63	01/22/74		06/25/63		06/25/63	
Santee	12/01/1980	03/10/82	11/09/81		10/26/81		10/26/81	
Solana Beach	07/01/1986	08/16/89	11/16/87		11/02/87		11/02/87	
Vista	01/28/1963	08/05/65	12/11/72		06/25/63		06/25/63	
San Francisco	02/18/1850	12/19/46	02/22/72		04/23/51		09/30/46	
San Joaquin	02/18/1850	07/07/50	03/16/71		01/29/51		06/02/09	
Escalon	03/12/1957	05/08/59	06/21/71		06/02/58		03/12/57	09/03/58
Lathrop	07/01/1989							
Lodi	12/06/1906	09/12/50	06/02/71		04/06/11		07/19/50	
Manteca	06/05/1918	11/29/50	03/05/51	08/04/71	12/04/50		11/21/49	
Ripon	11/17/1945	09/12/50	02/20/51		12/19/50		07/18/50	
Stockton	07/23/1850	06/16/49	04/12/71		12/26/50		11/15/48	
Tracy	07/22/1910	06/16/49	12/15/70		12/05/50		02/15/49	
San Luis Obispo	02/18/1850	12/19/46	09/11/86		12/04/50		10/28/46	
Arroyo Grande	06/11/1911	03/01/51	04/22/75		04/04/51	11/09/71	04/08/75	
Atascadero	07/02/1972	02/26/87	02/14/89		07/14/86		07/14/86	
Grover Beach	12/21/1959	12/04/61	10/04/61		10/04/61		10/04/61	
Morro Bay	07/15/1964	04/25/66	04/27/65		04/27/65		04/27/65	
Paso Robles	03/11/1889	08/11/52	04/16/51		12/04/50		06/02/52	
Pismo Beach	04/25/1946	05/01/51	07/23/73		12/04/50		03/05/51	
San Luis Obispo	02/19/1856	05/01/51	04/17/72		12/04/50		11/06/72	

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San Mateo	04/19/1856	05/01/51	02/01/72		12/05/50		02/20/51	
Atherton	09/12/1923	06/16/49	04/24/73		11/28/50		10/26/48	
Belmont	10/29/1926	06/16/49	03/10/75		12/11/50		09/25/50	
Brisbane	11/27/1961	07/11/62	04/07/75		06/11/62	10/26/64	06/11/62	
Burlingame	06/06/1908	06/24/47	03/15/71		12/04/50		03/07/77	
Colma	08/05/1924	06/15/51	06/11/75		12/13/50		05/09/51	
Daly City	03/22/1911	06/24/47	11/28/77		12/26/50		03/24/47	
East Palo Alto	01/01/1983	08/23/04	12/05/83	12/15/03	11/21/83		11/21/83	
Foster City	04/27/1971	08/20/73	04/14/75	05/21/84	05/29/73		06/11/73	
Half Moon Bay	07/15/1959	12/09/66	09/18/73		01/07/64		07/18/67	
Hillsborough	05/05/1910	06/24/47	02/05/51		12/11/50		09/11/67	
Menlo Park	11/23/1927	06/16/49	12/14/76		11/28/50		10/26/48	
Millbrae	01/14/1948	11/29/50	10/28/75		12/05/50		10/17/50	
Pacifica	11/21/1957	05/23/58	07/09/75		04/05/58		04/05/58	
Portola Valley	07/14/1964	10/08/85	01/15/84	01/25/17	10/14/64		07/28/82	
Redwood City	03/27/1868	06/16/49	02/14/72		12/11/50		08/02/48	
San Bruno	12/23/1914	06/16/49	12/13/71		12/13/50		10/27/48	
San Carlos	07/08/1925	06/24/47	12/10/74		12/13/50	01/14/53	11/24/48	
San Mateo	09/04/1894	12/19/46	09/01/71		04/02/51		10/02/50	
South San Francisco	09/19/1908	06/16/49	09/20/71		12/12/50		11/15/48	04/07/58
Woodside	11/16/1956	01/27/58	05/09/57		05/09/57		12/12/57	
Santa Barbara	02/18/1850	12/19/46	02/21/78		12/04/50		03/13/78	
Buellton	02/01/1992	03/01/94	02/01/92	06/09/94	02/20/92		02/20/92	
Carpinteria	09/28/1965	06/19/67	07/10/72		02/27/67		10/29/73	
Goleta	02/01/2002	11/27/06	09/16/02		09/03/02		09/03/02	
Guadalupe	08/03/1946	06/15/51	02/05/51		12/18/50		05/14/51	
Lompoc	08/13/1888	05/01/51	11/16/71		12/19/50		04/03/51	
Santa Barbara	04/09/1850	06/24/47	05/20/75		12/07/50		01/16/47	
Santa Maria	09/20/1905	06/16/49	01/03/72		12/04/50		12/06/48	
Solvang	05/01/1985	07/30/86	10/10/85		09/26/85		09/26/85	
Santa Clara	02/18/1850	12/19/46	06/15/71		12/04/50		09/03/46	
Campbell	03/28/1952	12/11/52	11/08/71		09/15/52		11/08/71	
Cupertino	10/10/1955	01/27/58	01/18/71	09/18/95	05/20/57		05/20/57	
Gilroy	03/12/1870	05/01/51	09/02/75		03/05/51		03/05/51	
Los Altos	12/01/1952	09/06/55	04/25/67		03/15/55		03/15/55	
Los Altos Hills	01/27/1956	04/16/64	08/20/75	06/19/14	01/20/64		01/20/64	
Los Gatos	08/10/1887	06/16/49	01/18/71		12/18/50		11/13/50	
Milpitas	01/26/1954	03/15/55	08/07/90		09/21/54		10/19/54	
Monte Sereno	05/14/1957	01/14/65	04/21/64		07/07/64		07/07/64	
Morgan Hill	11/10/1906	05/01/51	11/21/84		12/06/50		04/05/51	
Mountain View	11/07/1902	06/16/49	11/28/88		12/06/50		06/04/47	
Palo Alto	04/23/1894	06/24/47	12/20/71		12/26/50		09/25/50	
San Jose	03/27/1850	06/24/47	04/27/76		12/04/50		01/06/47	
Santa Clara	07/05/1852	06/24/47	04/13/71		12/04/50		08/28/79	
Saratoga	10/22/1956	05/08/59	02/17/77		10/01/58		10/01/58	
Sunnyvale	12/24/1912	06/24/47	09/23/75		12/05/50		05/05/47	
Santa Cruz	02/18/1850	12/19/46	02/21/78		11/25/50		10/09/50	
Capitola	01/11/1949	07/07/50	03/12/51		01/08/51		06/05/50	
Santa Cruz	03/31/1866	12/19/46	02/13/51		11/06/50		07/15/46	
Scotts Valley	08/02/1966	08/14/69	03/13/69		03/13/69		03/13/69	
Watsonville	03/30/1868	09/12/50	03/22/72		12/12/50		09/12/50	
Shasta	02/18/1850	03/01/51	06/06/79		12/04/50		01/25/51	

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Anderson	01/16/1956	02/01/57	12/04/56		12/04/56		12/04/56	
Redding	10/04/1887	11/20/50	11/03/58		12/18/50		09/05/50	
Shasta Lake	07/02/1993	09/29/03	06/17/03		06/17/03		06/17/03	
Sierra	04/16/1852	12/19/46	11/20/79		12/01/50		11/01/46	
Loyalton	09/21/1901	06/16/49	09/14/71		11/28/50		06/22/48	
Siskiyou	03/22/1852	03/01/51	03/13/73		04/03/51	01/29/57	12/14/54	
Dorris	12/23/1908	01/27/58	11/04/57		11/04/57		11/04/57	
Dunsmuir	08/07/1909	11/29/50	02/07/51		12/05/50		10/18/50	
Etna	03/13/1878	01/27/58	11/05/56		04/02/51	11/05/56	10/06/58	
Fort Jones	03/16/1872	09/16/74	08/05/74		12/05/50	08/05/74	08/05/74	
Montague	01/28/1909	04/30/57	02/07/57		11/01/56		11/01/56	
Mount Shasta	05/31/1905	01/23/52	01/19/51		12/04/50		01/12/51	
Tulelake	03/01/1937	05/01/51	05/04/59		05/04/59		05/04/59	
Weed	01/25/1961	04/25/66	11/18/65		03/05/64		03/05/64	
Yreka	04/21/1857	11/29/50	03/15/51		12/21/50		06/16/49	
Solano	02/18/1850	06/24/47	03/01/83		11/29/50		01/27/50	
Benicia	03/27/1850	06/16/49	02/06/73		12/05/50		11/03/48	
Dixon	03/30/1878	09/12/50	06/20/72		12/05/50		07/18/50	
Fairfield	12/12/1903	11/29/50	10/05/71		12/05/50		08/22/50	
Rio Vista	01/06/1894	11/29/50	12/05/74		12/07/50		09/07/50	
Suisun City	10/09/1868	11/29/50	08/05/75		12/05/50		10/31/50	
Vacaville	08/09/1892	11/29/50	07/23/74		12/05/50		09/05/50	
Vallejo	03/30/1868	06/24/47	09/11/73		12/04/50		12/11/50	
Sonoma	02/18/1850	12/19/46	03/04/74		11/27/50		10/22/46	
Cloverdale	02/28/1872	06/16/49	03/04/75		12/11/50	01/06/59	08/13/48	
Cotati	07/16/1963	01/14/65	04/19/73		12/17/64		12/17/64	
Healdsburg	02/20/1867	06/16/49	12/21/71		12/04/50		12/04/50	
Petaluma	04/12/1858	06/16/49	08/20/72		12/04/50		04/19/48	
Rohnert Park	08/27/1962	07/19/63	08/20/73		06/03/63		06/03/63	
Santa Rosa	03/16/1868	04/27/48	12/07/71		12/05/50		01/19/51	
Sebastopol	06/13/1902	11/29/50	11/05/73		01/02/51		07/05/50	
Sonoma	06/22/1900	09/12/50	09/25/72		12/06/50		08/02/50	
Windsor	07/01/1992	11/21/97	11/05/97		11/05/97		11/05/97	
Stanislaus	04/01/1854	12/19/46	12/21/79	04/08/08	12/11/50		12/13/46	
Ceres	02/26/1918	06/23/52	07/10/51		12/27/50		06/09/52	
Hughson	11/30/1972	06/06/74	03/21/73		03/21/73		03/21/73	
Modesto	08/06/1884	05/01/51	12/22/71		12/06/50		03/21/51	
Newman	06/10/1908	06/15/51	08/08/72		12/12/50		05/08/51	
Oakdale	11/24/1906	11/29/50	09/02/58		04/02/51		09/11/50	
Patterson	12/24/1919	05/01/51	10/03/72		11/28/50		04/06/51	
Riverbank	08/23/1922	05/01/51	08/28/72		04/09/51		04/09/51	
Turlock	02/15/1908	07/07/50	08/03/71		12/05/50		04/04/50	
Waterford	11/07/1969	03/22/73	04/03/72		03/02/70		02/05/73	
Sutter	02/18/1850	12/19/46	06/28/88		11/30/50		11/04/46	
Live Oak	01/22/1947	06/15/51	04/18/73		05/02/51		05/02/51	
Yuba City	01/23/1908	06/24/47	05/20/74		12/04/50		01/16/50	
Tehama	04/09/1856	12/19/46	07/30/85		12/24/56	05/24/66	08/07/50	
Corning	08/06/1907	11/29/50	07/12/71		12/05/50		10/03/50	
Red Bluff	03/31/1876	05/01/51	03/12/74		03/05/51		04/02/51	

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Tehama	07/05/1906	05/08/59	05/01/74		02/05/58		02/05/58	
Trinity	02/18/1850	12/19/46	07/05/72		01/08/57		09/04/46	
Tulare	04/20/1852	09/12/50	07/17/90		10/31/50		07/11/50	
Dinuba	01/06/1906	06/16/49	06/11/70		11/09/50		11/26/48	
Exeter	03/02/1911	11/29/50	07/14/70		04/11/51		09/13/50	
Farmersville	10/05/1960	04/16/64	06/24/70		03/11/64		03/11/64	
Lindsay	03/05/1910	09/12/50	02/11/63		12/11/50		08/14/50	
Porterville	05/07/1902	06/24/47	11/05/70		12/05/50		05/06/47	
Tulare	04/12/1888	04/27/48	12/01/70		11/08/50		05/01/51	
Visalia	02/27/1874	06/16/49	01/02/62		11/06/50		10/03/50	
Woodlake	09/23/1941	11/29/50	06/08/70		11/27/50		09/19/50	
Tuolumne	02/18/1850	06/24/47	04/29/86		12/01/50		04/02/51	
Sonora	05/01/1851	06/15/51	06/07/71		12/04/50		05/07/51	
Ventura	03/22/1872	12/19/46	01/18/72		03/11/58		01/25/72	
Camarillo	10/22/1964	07/27/70	06/10/70		06/10/70		06/10/70	
Fillmore	07/10/1914	06/16/49	04/27/71		12/12/50	08/24/71	08/24/71	
Moorpark	07/01/1983	08/16/89	03/01/89		03/01/89		03/01/89	
Ojai	08/05/1921	06/16/49	03/28/49		12/26/50		03/28/49	
Oxnard	06/30/1903	07/07/50	02/14/84		12/05/50		04/18/50	
Port Hueneme	03/24/1948	09/12/50	08/18/71		12/26/50	10/06/71	10/06/71	
San Buenaventura	04/02/1866	06/24/47	12/13/71		02/05/51		02/05/51	
Santa Paula	04/22/1902	09/12/50	09/08/70		12/18/50	09/08/70	09/08/70	
Simi Valley	10/10/1969	03/13/74	07/30/84		06/28/71		08/23/71	
Thousand Oaks	10/07/1964	03/30/72	03/09/71		02/16/71		03/02/71	
Yolo	02/18/1850	06/24/47	11/20/79		12/01/50		12/17/46	
Davis	03/28/1917	09/12/50	02/13/51		02/13/51		07/24/50	
West Sacramento	01/01/1987	08/16/89	04/05/89		08/09/89		08/02/89	
Winters	02/09/1898	11/29/50	08/20/74		12/05/50		07/06/48	
Woodland	03/24/1874	06/16/49	09/05/72		12/04/50		07/06/48	
Yuba	02/18/1850	12/19/46	05/25/71	07/21/92	03/05/51		10/07/46	
Marysville	02/05/1851	11/29/50	07/07/71		03/05/51		08/15/50	
Wheatland	04/12/1874	11/29/50	07/06/71		04/02/51		08/21/50	

58 Counties
481 Cities
539 TOTAL

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 3, 2025, I served the:

- **Current Mailing List dated May 7, 2025**
- **Claimant's Rebuttal Comments filed July 3, 2025**
- **CSAC's Late Comments on the Test Claim filed July 3, 2025**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 3, 2025 at Sacramento, California.

Jill Magee

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/7/25

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets, 24-TC-06

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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Commission on State Mandates
Filed Date
07/09/25

July 9, 2025

LATE FILING

Exhibit E

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Emergency Shelters: Persons with Pets, 24-TC-06
Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
County of Sacramento, Claimant

Dear Director Gmur:

The County of Santa Clara ("County") files the following rebuttal with the Commission on State Mandates ("Commission") in response to the Department of Finance ("DOF"), which commented on test claim 24-TC-06 ("Test Claim"), concerning emergency shelters for persons with pets. The Test Claim asserts that AB 781, which added section 8593.10 to the Government Code ("Shelter Mandate"), imposes an unfunded mandate on counties and thus requires subvention pursuant to article XIII B, section 6 of the California Constitution ("Section 6").

DISCUSSION

Section 6 "requires the state to provide a subvention of funds to compensate local governments for the cost of a new program or higher level of service mandated by the state." (*Department of Fin. v. Comm'n on State Mandates* (2022) 85 Cal.App.5th 535, 549.) A local government may seek reimbursement if: (1) the statute "compels the local agency to act," (2) "the compelled activity requires the agency to provide a new

program or higher level of service," and (3) none of the statutory or constitutional exceptions to the State's responsibility to reimburse local governments applies. (*Coast Cmty. Coll. Dist. v. Comm'n on State Mandates* (2022) 13 Cal. 5th 800, 808 (citation omitted).)

DOF comments only on the first criterion and claims that the Shelter Mandate does not compel local governments to act because compliance with the Shelter Mandate is discretionary for two reasons: first, because the law "provides cities and counties with the discretion to create disaster councils," and only if they opt to do so do they take on any emergency planning or management role; and second, because the statute requires designation of shelters that can accommodate pets "to the extent practicable," and "[t]he determination of practicability is discretionary" on the part of localities. (DOF, *supra*, at p. 2.) The County respectfully disagrees with DOF and asks the Commission to approve the Test Claim.

A. Counties Are Practically Compelled to Create and Maintain Local Disaster Councils.

Under Section 6, a statute "constitute[s] a state mandate" when it "establishes conditions under which the state, rather than local officials, has made the decision requiring [local entities] to incur the costs of" providing a new program. (*San Diego Unified Sch. Dist.*, *supra*, 33 Cal. 4th at p. 880.) When "an entity makes an initial discretionary decision that in turn triggers mandated costs," that entity may still be due reimbursement under Section 6. (*Department of Finance*, *supra*, 85 Cal.App.5th at p. 557 [citation omitted].) This is because local governments may be compelled "as a practical matter" to comply with a State program "when an entity or its constituents face certain and severe penalties or consequences for not participating in" the program. (*Id*. at p. 558.) The burden is on the local government to make a "concrete showing" in the record that compliance with the State program "is the only reasonable means to carry out their core mandatory functions." (*Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1368.)

Case law and previous Commission decisions illustrate several examples of practically compelled mandates that required reimbursement under Section 6. Rejecting the argument that local governments preclude reimbursement by choosing to provide a stormwater drainage system, the Court of Appeal explained that "[t]he drainage of a city in the interest of the public health and welfare is one of the most important purposes for which the police power can be exercised," such that "deciding not to provide a stormwater drainage system is no alternative at all." (*Department of Finance*, *supra*, 85 Cal.App.5th at p. 558 [citation omitted].)

In determining that the federal government practically compelled the State and local governments to provide unemployment insurance benefits to their employees, the

Court of Appeal observed that California "businesses faced a new and serious penalty" for noncompliance, one that was "certain and severe." (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 74.) State and local government noncompliance would invite "full, double unemployment taxation by both state and federal governments" that, "[b]esides constituting an intolerable expense against the state's economy on its face, . . . would place California employers at a serious competitive disadvantage against their counterparts in states which remained in federal compliance." (*Ibid*.)

The Commission also determined that post-election manual tallies were practically compelled during the November 2008 General Election. First, the Commission noted that it is a "core mandatory function of counties . . . to conduct elections." (Post Election Manual Tally (PEMT), 10-TC-08, Statement of Decision, 37, Commission on State Mandates (2014).) In that case, the claimant established that complying with the test claim regulations was "the only reasonable means to carry out its core mandatory function." (*Ibid*.) Given the compliance timeframe and with voting already underway, the Commission agreed that "counties could not, as a practical matter, stop using the already-approved electronic voting system and change to a paper ballot only voting process to avoid the test claim regulations." (*Id*. at pp. 37-38.)

The Shelter Mandate compels compliance as a practical matter because counties—and more importantly, the residents they serve—face severe and certain consequences were counties to abdicate the role of emergency planning and management. DOF's assertions that there are no statutory requirements for a city or county to develop an emergency plan, operate any emergency shelter, or provide cooling or warming centers distract from the reality of emergency preparedness.

By "not[ing] the requirement to develop emergency plans stems from the discretionary decision of a city or county to form a disaster council," the DOF suggests that a local government can avoid the costs of this mandate by simply shuttering its disaster council. (DOF, *supra*, at p. 2.) The DOF position thus declares that a county has the discretion to excise itself from the State's emergency management system, rendering it an island cut off from regional and statewide emergency planning and preparedness, coordination, and mutual aid. As with the decision to not provide a stormwater drainage system, this "is no alternative at all." (*Department of Finance*, *supra*, 85 Cal.App.5th at p. 558 [citation omitted].)

The DOF elides the fact that *all* 58 counties and at least 481 of California's 483 cities have a State-accredited disaster council.[1] (Decl. of Dana Reed at p. 2, ex. 1 ("Reed Decl.").) Disaster councils, as well as the broader authority for a county to form

[1] As of the 2023 publication of the list of accredited disaster councils, there were only 482 cities in California. The State's newest city formed in 2024. (See *California Gets a New City*, Newsweek (Jul. 4, 2024), https://www.newsweek.com/mountain-house-becomes-new-california-city-1921023.)

an "emergency organization" that corresponds to its "operational area," are integral to the State's emergency management system. (See Gov. Code, § 8610, subds. (a), (b); *id*. § 8605.) The California Governor's Office of Emergency Services (Cal OES) recognizes these as critical local government functions, emphasizing the importance of localities' involvement in emergency planning and response work. In the State of California Emergency Plan, Cal OES declares that "[a]ll incidents are local"; and that, under the State's Standardized Emergency Management System, it is the responsibility of "[l]ocal governments [to] manage and coordinate the overall emergency response and recovery activities within their jurisdiction." (Reed Decl., *supra*, at p. 2, ex. 2.) Indeed, the State accredits local disaster councils to standardize emergency planning statewide, requiring the local entity to submit a disaster council model emergency ordinance, a disaster service workers volunteer resolution, and a master mutual aid agreement. (See Cal. Code Regs. Tit. 19, § 2571; see also Reed Decl., *supra*, at p. 2, ex. 3.) Through the master mutual aid agreement, the local entity resolves to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement, which "allows for participation in the statewide Mutual Aid system." (Reed Decl., *supra*, at p. 2, ex. 3.)

Severe and certain consequences would follow if a county took the unprecedented step of withdrawing from the regional and statewide disaster management framework, including the loss of coordination and mutual aid in emergencies. (*Id*., at p. 3.) Indeed, the Legislature designed California's emergency management system around this very interdependence (see Gov. Code, § 8605), and Cal OES contemplates statewide participation by localities (see Reed Decl., *supra*, at p. 2 [citing pertinent provisions of the State Emergency Plan]). And again, surrounding localities and the State would likewise suffer from any individual county's withdrawal. (*Id*., at p. 3.)

Even if it were not enough to demonstrate the practical compulsion that follows from the deeply interdependent system of emergency planning, it is also sufficient on its own to illustrate the practical compulsion a county faces to continue operating a longstanding local government infrastructure rather than dismantling it to avoid a State-imposed mandate. Each county-based disaster council has been accredited for at least 70 years, and the California Disaster and Civil Defense Master Mutual Aid Agreement was memorialized by Governor Earl Warren in 1950. (*Id*. at p. 2, ex. 1; p. 2, ex. 4.) In other words, the DOF contemplates that a county can avoid the costs of AB 781 by taking a wrecking ball to local government infrastructure and regional and statewide expectations that have been in place for more than 70 years. Severe and certain consequences would follow. In addition to the interdependent consequences noted above, the DOF is effectively daring counties to eliminate plans, offices, personnel, and supplies procured for disaster planning just to avoid a State mandate. (*Id*., at p. 3.) Of course, the DOF expects that no county will take this approach. So, it asks the Commission to allow the State to exploit longstanding discretionary local government institutions by imposing mandates upon them and disclaiming responsibility for funding.

B. The Shelter Mandate is Not Rendered Discretionary by Practicability

The Shelter Mandate requires that a city or county designating any number of emergency cooling or warming centers "shall, to the extent practicable" designate at least one cooling or warming center to "that can accommodate persons with pets." (Gov. Code, § 8593.10, subds. (b)(1)(D)-(E).) The DOF takes this language to mean that "[t]he determination of practicability is discretionary" on the part of localities. (DOF, *supra*, at p. 2.) The County disagrees with DOF because practicability does not mean that a local government can simply decline to implement this mandate.

The practicability directive should be understood in the context of *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, which concerned a mandate requiring county firefighters to have protective equipment. There, the Court of Appeal "apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ—and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected." (*San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 888.) In other words, the discretion to determine what is practicable does not render a mandate discretionary for the purposes of Section 6.

First, the plain language of "practicable" means "capable of being put into practice or of being done or accomplished." (Practicable, Merriam-Webster, https://www.merriam-webster.com/dictionary/practicable.) It does not mean that a decisionmaker can decline a mandate out of hand. Rather, the Shelter Mandate instructs cities and counties that have disaster councils to determine what is capable of being put into practice. Indeed, the Legislature is not coy about designating discretionary determinations that allow actors to decline an action. "Ordinarily, the word 'may' connotes a discretionary or permissive act." (*Wittenburg v. Beachwalk Homeowners Assn.* (2013) 217 Cal.App.4th 654, 667 [citing *Woodbury v. Brown–Dempsey* (2003) 108 Cal.App.4th 421, 433].) If the Legislature wished to make this action discretionary, it would have used the ordinary term, "may."

Legislative intent likewise reflects the design of mandating a practicable implementation. Section 1 of the Shelter Mandate underscores the importance of designating cooling and warming centers. The bill states that "[i]t is the intent of the Legislature in enacting this legislation to provide guidance in increasing public preparedness and establishing cosheltering standards so that Californians know that when a disaster or extreme weather event occurs, they will not have to choose between seeking safety and staying with their pets." (Assem. Bill No. 781 (2023–2024 Reg. Sess.) § 1, subd. (f).) This is because "[r]esearch has found the most significant risk factor for evacuation failure is pet ownership. Research indicates that pet owners may

refuse evacuation, attempt to illegally reenter evacuation sites to rescue their animals, and face grief, depression, and PTSD because of separation from their pet during an emergency." (*Id*., subd. (c).) Further, both the Assembly and the Senate Appropriations Committees acknowledge the fiscal impact of State-mandated updates to emergency plans; neither report disclaims the need to update such plans for warming or cooling centers that can accommodate pets. (See, e.g., Sen. Approps. Cmte. Report, p. 1, Assem. Bill No. 781 (2023–2024 Reg. Sess.); Assem. Approps. Cmte. Report, p. 1, Assem. Bill No. 781 (2023–2024 Reg. Sess.).)

The broader statutory design of the State's emergency management system reinforces the notion that governments, including counties, must undertake practicable emergency planning and management that adapts and responds to community needs. Among other indicia, this is why the Legislature provides for immunity from suit for any and all local government actions or omissions in carrying out these activities. (Gov. Code, § 8655.) The courts have described the purpose of this immunity as "self-explanatory": "In situations in which the state [or a locality] must take steps necessary to quell an emergency, it must be able to act with speed and confidence, unhampered by fear of tort liability." (*Thousand Trails, Inc. v. Cal. Reclamation Dist. No. 17* (2004) 124 Cal.App.4th 450, 458.) This "broad immunity" extends beyond actions or omissions taken during an active emergency, covering, for example, a suit against the government for an injury incurred in an emergency response training exercise. (*Soto v. State of California* (1997) 56 Cal.App.4th 196, 200.) So, when the Legislature tells local governments to implement what is practicable, it is recognizing that the *how* of implementation is up to localities, not *whether* the implementation occurs at all.

To the extent that the DOF is concerned that practicability does not provide a clear standard about what is and is not reimbursable, the County would note that local governments often present different costs for reimbursement based on their size, activities, and needs. Moreover, the Parameters and Guidelines Phase of the Commission process provides a mechanism for the parties to deliberate about what "proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program." (Gov. Code, § 17557, subd. (a).) In this context, the Shelter Mandate's instruction to determine "practicable" designations should be read as a mutually binding standard for the local government and state government to decide what is feasible to designate and fiscally support.

CONCLUSION

With this rebuttal comment, the County respectfully disagrees with DOF and urges the Commission to adopt a decision approving the Test Claim. As the Claimant demonstrates, implementing the Shelter Mandate will require significant local government resources that require subvention pursuant to Section 6. These resources are crucial to realizing the core mission of the Shelter Mandate "so that Californians

know that when a disaster or extreme weather event occurs, they will not have to choose between seeking safety and staying with their pets." (Assem. Bill No. 781 (2023–2024 Reg. Sess.) § 1, subd. (f).)

Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

Very truly yours,
TONY LOPRESTI
County Counsel

KAVITA NARAYAN
Chief Assistant County Counsel

RAJIV NARAYAN
Deputy County Counsel

DECLARATION OF DANA C. REED

1. I, Dana C. Reed, declare:

2. I am the Director of Emergency Management for the County of Santa Clara (County), where I oversee the County's Office of Emergency Management (OEM). I also oversee the Office of Emergency Management for the Santa Clara County Central Fire Protection District. I have held these positions for 11 years.

3. Previously, I was a Deputy Fire Chief with the City of San José, California, and also served as an Emergency Services Specialist with the NASA Ames Fire Department at the Moffett Field Federal Airfield. Overall, I have worked in incident management and emergency management for nearly 45 years, including managing Emergency Operations Centers and serving as an Incident Commander in the field during emergency incidents. I also currently chair the Emergency Managers Committee of the Santa Clara County Operational Area Signatories and serve on the Approval Authority for the Bay Area Urban Area Security Initiative (UASI).

4. I oversee the implementation of AB 781 ("Shelter Mandate") in the County of Santa Clara, and I am aware of the extent to which it imposes a new program and higher level of service on the County.

5. The Shelter Mandate adds new duties to the County's longstanding emergency management infrastructure, activities, and partnerships.

6. Under California's emergency management framework, OEM is the lead emergency management agency for the entire Santa Clara County Operational Area (Op Area), which encompasses the geographical region of Santa Clara County and all the local jurisdictions—including cities, towns, and special districts—within it. In its lead Op Area role, OEM's core function is to promote, facilitate, and support the efforts of the County and of all of the cities, towns, and local districts within the county to prepare for, respond to, and recover from disasters, emergencies and complex incidents of all types, including both natural disasters, such as earthquakes, and manmade incidents and events, such as terrorist attacks. OEM is also responsible for direct emergency management in the unincorporated areas of the county. This includes determining resource priorities and coordinating the response during a proclaimed emergency, including mutual aid or other resources from the State and federal governments.

7. Among its many responsibilities, OEM provides emergency management training; engages in region-wide hazard planning; activates, staffs, and operates the County's Emergency Operations Center, which serves the County and the entire Op Area during emergency incidents; and coordinates public and private efforts to recover following incidents.

8. Disaster planning is a statewide, regional, and local effort. Among many other local entities and planning bodies, all 58 counties and at least 481 of California's cities have a State-accredited local disaster council. A true and accurate copy of the State's most recent spreadsheet detailing this list is attached hereto as Exhibit 1.

9. The State relies on local governments to implement a comprehensive and effective emergency preparedness plan, and to render mutual aid in the event of an emergency. A true and accurate copy of the State's most recent emergency management system plan is attached hereto as Exhibit 2.

10. In its emergency management plan, the State repeatedly contemplates the statewide participation of localities in a comprehensive system:

    a. "The greater the complexity, impact, and geographic scope of an emergency, the more multiagency coordination will be required." (Ex. 2, at p. 19.)
    b. "The political subdivisions of the state will mobilize to deliver emergency and essential services under all threats and emergencies." (*Ibid.*)
    c. "The OA serves as the coordination and communication link between the Local Government Level and Regional Level." (*Id.*, at pp. 21-22, 33.)
    d. The State depends on county-level and regional emergency organizations. (*Id.*, at pp. 27-28.)

11. The State's program for accrediting local disaster councils requires the local entity to submit a disaster council model emergency ordinance, a disaster service workers volunteer resolution, and a master mutual aid agreement. A true and accurate copy of the State's local disaster council accreditation webpage is attached hereto as Exhibit 3.

12. The California Disaster and Civil Defense Master Mutual Aid Agreement was memorialized by Governor Earl Warren in 1950 and has been in place ever since. A true and accurate copy of the Master Mutual Aid Agreement is attached hereto as Exhibit 4.

13. It is a core function of all cities and counties to participate in emergency planning and to support emergency coordination, including by implementing their own protocols for emergency management, and by offering mutual aid in the event of an emergency. The County has participated in the State's emergency planning and management scheme for at least 70 years.

14. The County cannot reasonably decline to implement the Shelter Mandate.

15. It is no alternative at all for a city or a county to avoid implementing the Shelter Mandate by withdrawing from the State's emergency planning system, either by eliminating its local disaster council or by ceasing is operational area activities.

16. Counties and cities have no practical option but to implement emergency management and planning mandates like the Shelter Mandate because certain and severe consequences would follow were these local governments to exit the statewide system of emergency management, including:

    a. The County would be severely hampered in its ability to coordinate emergency planning with its peer local governments and the State.

    b. The County would be severely hampered in its ability to coordinate with its peer local governments and the State in response to emergencies.

    c. The County would be severely hampered in its ability to receive and provide mutual aid during emergencies.

    d. The State and peer local governments in the region would suffer from the County withdrawing from statewide and regional emergency planning and response.

    e. The County would need to eliminate offices and institutions that have persisted for more than a half century; and it would need to eliminate personnel and supplies.

17. It is not practicable for the County to avoid designating warming and cooling centers that can accommodate pets in compliance with the Shelter Mandate merely to save funds. Rather, the County is required to implement the Shelter Mandate to the best of its ability in order to meet its emergency needs on behalf of its residents, who depend on the County to take this responsibility seriously.

18. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information, or belief.

19. Executed on July 08, 2025 at San José, California.

Dana C. Reed
Director of Emergency Management
San José, CA 95110

Exhibit 1

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Alameda	03/25/1853	12/19/46	07/09/91		11/28/50		07/02/46	
Alameda	04/19/1854	06/24/47	09/05/72		12/19/50		01/22/47	06/22/16
Albany	09/22/1908	06/24/47	10/09/73	11/01/95	12/19/50		10/02/50	
Berkeley	04/01/1878	12/19/46	10/08/74	03/29/16	12/12/50		12/11/46	
Dublin	02/01/1982	09/29/03	01/14/85		06/13/83		02/18/03	
Emeryville	12/08/1896	06/16/49	08/30/65	07/11/17	12/11/50		03/15/48	
Fremont	01/23/1956	02/01/57	10/02/73		05/29/56		05/29/56	
Hayward	03/11/1876	11/29/50	05/22/90		12/04/50		07/28/59	
Livermore	04/01/1876	04/27/48	01/17/72		12/04/50		02/04/57	06/10/85
Newark	09/22/1955	02/01/57	05/11/72	10/03/13	01/10/57		01/10/57	
Oakland	05/04/1852	12/19/46	03/16/76	06/23/92	12/12/50		07/25/46	
Piedmont	01/31/1907	04/27/48	07/03/72		12/07/50		03/04/48	
Pleasanton	06/13/1894	06/16/49	05/01/72		05/13/51		05/13/57	
San Leandro	03/21/1872	04/27/48	06/28/71	07/06/71	12/04/50		03/01/48	
Union City	01/26/1959	12/12/60	03/19/73		09/19/60		09/16/60	
Alpine	03/16/1864	12/19/46	10/05/70		12/02/03		12/04/03	
Amador	05/11/1854	06/24/47	02/05/51	11/14/95	04/01/63		04/01/63	
Amador	06/02/1915	06/15/51	05/09/51		12/13/50		05/09/51	
Ione	03/23/1953	01/26/54	12/21/64		12/16/53		12/16/53	
Jackson	12/14/1905	06/15/51	12/21/64		12/21/64		12/21/64	
Plymouth	02/08/1917	06/15/51	05/03/51		07/20/51		05/03/51	
Sutter Creek	02/11/1913	09/12/50	08/21/50		12/04/50		08/21/50	
Butte	02/18/1850	12/19/46	01/30/73	04/21/92	11/27/50		08/23/46	
Biggs	06/26/1903	06/15/51	07/10/72	04/15/74	12/04/50		09/11/50	
Chico	01/08/1872	09/12/50	01/16/51	03/08/62	12/05/50		08/01/50	
Gridley	11/23/1905	06/16/49	04/02/73		12/04/50		05/17/48	
Oroville	01/03/1906	06/24/47	05/04/88		12/04/50		07/19/88	
Paradise	11/27/1979	10/08/85	12/06/83		11/16/82		12/06/83	
Calaveras	02/18/1850	09/12/50	11/17/75		12/04/50		04/22/63	
Angels Camp	01/24/1912	11/29/50	12/02/58		12/05/50		08/01/50	
Colusa	02/18/1850	12/19/46	10/01/85		12/04/50		08/17/50	
Colusa	04/04/1870	06/15/51	09/26/72		02/19/51		06/04/51	
Williams	05/19/1920	06/15/51	06/04/73		06/05/59		04/24/51	
Contra Costa	02/18/1850	12/19/46	10/19/82		11/27/50		09/04/46	
Antioch	02/06/1872	06/16/49	06/26/73	09/12/54	12/11/50		03/08/54	
Brentwood	01/21/1948	09/12/50	03/13/51	02/10/76	12/19/50		07/11/50	
Clayton	03/18/1964	10/27/83	02/07/73		07/07/82		07/07/82	
Concord	02/09/1905	09/12/50	08/02/71		03/24/58		03/05/84	
Danville	07/01/1982	10/08/85	03/04/85		02/21/85		02/21/85	
El Cerrito	08/23/1917	06/16/49	05/19/75		12/04/50		01/03/49	
Hercules	12/15/1900	06/23/52	04/24/52		12/28/50		08/11/50	
Lafayette	07/22/1968	08/14/69	06/11/69		06/11/69		06/11/69	
Martinez	04/01/1864	06/16/49	01/06/71		12/06/50		04/06/49	
Moraga	11/12/1974	10/08/85	01/18/84		01/04/84		01/04/84	
Oakley	07/01/1999	04/23/10	03/09/10	04/13/10	03/23/10		02/23/10	
Orinda	07/01/1985	08/16/89	11/24/86		08/26/86		08/26/86	
Pinole	06/25/1903	06/16/49	09/17/73		12/04/50		07/06/48	
Pittsburg	06/25/1903	05/01/51	09/08/59		12/04/50		01/06/86	
Pleasant Hill	11/16/1961	07/11/62	01/02/73		04/02/62		07/13/64	

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Richmond	08/16/1905	06/24/47	04/30/73	06/04/84	12/11/50		12/30/46	
San Pablo	04/27/1948	09/12/50	02/05/51		12/04/50		07/10/50	
San Ramon	07/01/1983	08/16/89	12/23/85		12/10/85		12/10/85	
Walnut Creek	10/20/1914	11/29/50	02/07/72		12/06/50		09/06/50	
Del Norte	03/02/1857	06/24/47	03/22/76		12/12/50		04/15/47	
Crescent City	04/13/1854	06/16/49	05/10/76		12/11/50		10/11/48	
El Dorado	02/18/1850	12/19/46	07/22/75		12/04/50		12/03/46	
Placerville	05/13/1854	11/29/50	04/19/66		12/04/50		09/18/50	
South Lake Tahoe	03/30/1965	09/14/67	01/18/72		12/06/66		12/06/66	
Fresno	04/19/1856	04/27/48	12/05/78		12/05/50		09/23/47	
Clovis	02/27/1912	06/16/49	08/02/76		12/18/50		01/06/47	
Coalinga	04/03/1906	03/01/51	04/19/71		12/04/50		12/18/50	
Firebaugh	09/17/1914	01/26/54	07/22/74		11/27/50		07/15/53	
Fowler	06/15/1908	05/05/44	07/18/50		12/05/50		09/19/50	
Fresno	10/15/1885	09/12/50	01/13/87		11/30/50		09/28/50	
Huron	05/03/1951	01/26/54	06/20/79		06/03/53		06/03/53	
Kerman	07/02/1946	05/01/51	02/26/51		11/27/50		03/26/51	
Kingsburg	05/19/1908	06/20/55	09/05/72		07/16/51		07/19/54	
Mendota	06/17/1942	06/15/51	05/22/51		04/10/51		04/10/51	
Orange Cove	01/20/1948	11/29/50	08/15/50		12/04/50		10/02/50	
Parlier	11/15/1921	11/29/50	10/19/72		12/07/50		08/17/50	
Reedley	02/18/1913	06/15/51	05/18/71		12/05/50		05/15/51	
San Joaquin	02/14/1920	01/23/52	05/21/51		07/20/53		10/15/51	
Sanger	05/09/1911	05/01/51	03/07/51		12/06/50		04/04/51	
Selma	03/15/1893	07/07/50	09/01/71		12/04/50		04/17/50	
Glenn	03/11/1891	03/01/51	09/26/72		01/07/57		12/18/50	
Orland	11/11/1909	06/15/51	02/24/72		12/04/50		05/07/51	
Willows	01/16/1886	05/01/51	01/10/72		12/04/50		09/25/50	
Humboldt	05/12/1853	03/07/50	01/16/74		12/01/50		06/27/49	
Arcata	02/02/1858	11/29/50	03/05/75		12/01/50		10/06/50	
Blue Lake	04/23/1910	01/23/52	04/09/51		12/11/50		11/03/48	
Eureka	04/18/1856	03/07/50	06/03/75		12/26/50		06/07/49	
Ferndale	08/28/1893	06/16/49	12/07/48		01/02/51		12/07/48	
Fortuna	02/20/1906	03/07/50	11/19/73		01/06/51		07/05/49	
Rio Dell	02/26/1965	10/27/65	11/01/83		07/20/65	10/18/83	10/18/83	
Trinidad	11/07/1870	01/27/58	09/09/57		11/04/57		11/04/57	
Imperial	08/15/1907	12/19/46	05/31/73	03/29/90	12/04/50		02/06/73	
Brawley	04/16/1908	03/07/50	02/20/73		12/04/50		02/05/73	
Calexico	04/16/1908	09/12/50	10/21/86		12/05/50		09/19/50	
Calipatria	02/28/1919	04/30/57	02/13/73		03/19/59		04/09/57	
El Centro	04/16/1908	06/24/47	10/17/84		12/06/50		04/11/73	
Holtville	07/01/1908	11/29/50	11/23/54		12/13/50		09/20/50	
Imperial	07/12/1904	03/07/50	02/14/73		12/13/50		02/23/50	
Westmorland	06/30/1934	11/29/50	02/26/73		12/11/50		10/30/50	
Inyo	03/22/1856	12/19/46	08/07/72		12/05/50		11/08/50	
Bishop	05/06/1903	11/29/50	09/11/73		12/11/50		11/10/75	
Kern	04/02/1866	06/12/46	04/26/90	11/26/92	12/04/50		05/27/46	
Arvin	12/21/1960	10/18/61	06/12/61		02/12/73	04/26/76	07/10/61	

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Bakersfield	01/11/1898	06/16/49	05/27/68	08/27/73	12/04/50		08/09/48	
California City	12/08/1965	12/09/66	07/18/66		07/18/66		07/18/66	
Delano	04/13/1915	11/29/50	06/05/72		12/04/50		10/16/50	
Maricopa	07/25/1911	11/29/50	03/12/51		12/11/50		08/28/50	
McFarland	07/18/1957	06/25/58	05/21/58		05/21/58		05/21/58	
Ridgecrest	11/29/1963	10/08/85	01/03/74		06/11/73		12/05/83	
Shafter	01/20/1938	06/24/47	05/12/69		12/13/50		08/14/50	
Taft	11/22/1910	11/29/50	08/20/79		04/02/51		08/21/50	
Tehachapi	08/13/1909	11/29/50	12/18/72		12/04/50		10/02/50	
Wasco	12/22/1945	06/16/49	08/06/48		04/01/51		04/30/47	
Kings	03/22/1893	06/24/47	06/15/82		12/12/50		02/06/47	
Avenal	09/08/1979	06/16/82	05/27/82		05/13/82		05/13/82	
Corcoran	08/06/1907	06/16/49	11/15/82		12/04/50		04/04/49	
Hanford	08/12/1891	06/24/47	02/15/83		02/13/51		05/26/46	
Lemoore	08/04/1900	05/01/51	05/18/82		03/05/51		06/01/51	
Lake	05/20/1861	04/27/48	12/06/71	11/07/89	11/27/50		12/02/47	
Clear Lake	11/14/1980	02/26/87	12/02/85		12/02/85		12/02/85	
Lakeport	04/30/1888	06/15/51	06/19/72		12/05/50	09/02/52	04/16/51	
Lassen	04/01/1864	12/19/46	01/08/73		12/04/50		09/05/50	
Susanville	08/24/1900	05/01/51	06/15/70	02/05/73	07/23/56		04/23/51	
Los Angeles	02/18/1850	06/12/46	09/01/89		12/12/50		07/09/46	
Agoura Hills	11/08/1982	10/08/85	09/21/83		05/04/83		05/04/83	
Alhambra	07/11/1903	06/24/47	09/11/74		12/05/50		02/04/47	
Arcadia	08/05/1903	06/16/49	07/06/71		12/05/50		07/20/48	
Artesia	05/29/1959	11/09/59	07/09/79		08/03/59		09/14/59	
Avalon	06/26/1913	11/29/50	10/15/79		12/07/50		09/22/50	
Azusa	12/29/1898	06/16/49	09/16/85		12/04/50		04/04/83	
Baldwin Park	01/25/1956	05/24/57	03/15/67		11/05/56		02/18/57	
Bell	11/07/1927	06/24/47	06/20/83		12/04/50		12/16/46	04/15/74
Bell Gardens	08/01/1961	08/05/65	11/13/61		07/26/65		07/26/65	
Bellflower	09/03/1957	01/16/63	04/25/77		10/31/62		10/31/62	12/09/96
Beverly Hills	01/29/1914	06/24/47	12/08/90		04/29/52		01/21/47	
Bradbury	07/26/1957	12/12/60	06/08/67	12/15/81	11/01/60		11/01/60	
Burbank	07/15/1911	12/19/46	01/23/73		12/12/50		06/18/46	
Calabasas	04/05/1991	03/01/94	11/20/91		11/06/91		11/06/91	
Carson	02/19/1968	08/14/69	12/15/75		04/21/69		04/21/69	
Cerritos	04/24/1956	04/15/68	12/13/67	05/02/79	11/01/67		11/01/67	
Claremont	10/03/1907	06/24/47	11/14/72		12/05/50	12/11/84	12/11/84	
Commerce	01/28/1960	04/10/63	02/04/85		02/05/62		02/05/62	
Compton	05/11/1888	06/16/49	04/08/80		11/28/50		12/05/50	
Covina	08/14/1901	09/12/50	09/05/72		12/04/50		09/18/50	
Cudahy	11/10/1960	10/08/85	06/04/84		05/07/84		05/07/84	
Culver City	09/20/1917	06/16/49	03/22/71		12/11/50		06/05/89	
Diamond Bar	04/18/1989	01/28/92	05/21/91		04/18/89		05/07/91	
Downey	12/17/1956	06/25/58	05/08/79		05/26/58		05/26/58	
Duarte	08/22/1957	11/09/59	03/09/71		12/08/58		12/08/58	
El Monte	11/18/1912	06/16/49	12/05/72		12/04/50		12/06/48	
El Segundo	01/18/1917	06/16/49	01/04/77		11/29/50		10/27/48	
Gardena	09/11/1930	06/24/47	06/05/67	07/10/79	11/28/50		12/16/46	
Glendale	02/15/1906	12/19/46	07/27/71		11/16/50		07/30/46	
Glendora	11/13/1911	11/29/50	08/10/71		11/28/50		01/14/92	
Hawaiian Gardens	04/09/1964	03/22/73	09/12/72		03/27/73		08/22/72	

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Hawthrone	07/12/1922	06/16/49	01/12/81		11/28/50		12/12/50	
Hermosa Beach	01/10/1907	06/24/47	01/11/77		12/05/50		04/15/47	
Hidden Hills	10/19/1961	01/09/79	02/17/86		03/07/78		03/07/78	
Huntington Park	09/01/1906	06/12/46	06/27/77		12/04/50		05/06/46	
Industry	06/18/1957	12/15/98	12/01/86	08/27/98	08/27/98		08/27/98	
Inglewood	02/14/1908	06/16/49	06/04/85		11/28/50		06/22/48	
Irwindale	08/06/1957	04/10/63	10/09/75		11/27/62		11/27/62	
La Canada Flintridge	11/30/1976	01/09/72	06/20/77		06/20/77		11/20/78	
La Habra Heights	12/04/1978	11/14/79	06/21/79		12/11/73	06/07/79	06/07/79	
La Mirada	03/23/1960	10/31/63	08/09/77		09/24/63		09/24/63	
La Puente	11/21/1977	12/04/61	03/13/90		11/14/61		11/14/61	
La Verne	08/20/1906	06/16/49	04/04/77		12/04/50		11/01/48	
Lakewood	04/16/1954	08/14/59	02/05/74		06/09/59		06/09/59	
Lancaster	11/21/1977	11/14/79	09/03/85		08/06/79		08/06/79	
Lawndale	12/28/1959	04/25/66	09/20/76		01/16/61		09/20/76	
Lomita	06/25/1964	01/14/65	10/25/76		11/09/64		10/04/76	
Long Beach	12/13/1897	12/19/46	11/09/71		12/19/50		03/06/51	
Los Angeles	04/04/1850	12/19/46	07/25/89		02/26/51		07/01/46	
Lynwood	07/16/1921	06/16/49	05/06/80		12/05/50		10/19/48	
Malibu	03/28/1991	03/01/94	07/16/91		12/17/91		12/17/91	
Manhattan Beach	12/07/1912	06/16/49	11/16/71	09/07/76	12/05/50		09/07/76	
Maywood	09/02/1924	06/24/47	01/09/51	03/26/91	11/28/50		05/27/47	
Monrovia	12/15/1887	06/16/49	09/20/83		12/04/50		09/06/83	
Montebello	10/16/1920	12/19/46	05/08/90		12/04/50		06/17/46	
Monterey Park	05/29/1916	07/07/50	07/10/89		12/11/50		03/13/50	
Norwalk	08/26/1957	10/18/61	04/10/72		02/08/60		02/08/60	
Palmdale	08/24/1962	05/24/63	11/02/62	03/14/85	03/15/63		03/15/63	
Palos Verdes Estates	12/20/1939	04/30/57	12/14/76		11/29/56		02/26/57	
Paramount	01/30/1957	05/08/59	07/14/77		04/21/59		04/21/59	
Pasadena	06/19/1886	06/24/47	02/01/72		01/30/51		04/22/47	
Pico Rivera	01/29/1958	06/24/59	12/17/79		06/01/59		06/01/59	
Pomona	01/06/1888	06/12/46	05/16/83		12/05/50		04/25/50	
Rancho Palos Verdes	09/04/1973	11/25/74	09/17/74		09/03/74		09/03/74	
Redondo Beach	04/29/1882	11/29/50	02/14/77		12/11/50		03/28/77	
Rolling Hills	01/24/1957	08/14/59	08/07/74		07/13/59		07/13/59	
Rolling Hills Estates	09/18/1957	10/31/63	08/11/71		06/10/59		06/10/59	
Rosemead	08/04/1959	04/25/66	07/13/76		09/23/59		09/23/59	
San Dimas	08/04/1960	04/10/63	11/24/75		01/14/63		02/23/76	
San Fernando	08/31/1911	09/12/50	06/29/73		12/04/50		07/05/49	
San Gabriel	08/24/1913	06/16/49	08/03/71		12/12/50		10/19/48	
San Marino	04/25/1913	11/29/50	05/09/51	06/14/89	12/13/50		04/27/49	
Santa Clarita	12/15/1987	08/16/89	07/11/89		06/13/89		06/13/89	
Santa Fe Springs	05/15/1957	06/24/59	08/08/77		05/28/59		05/28/59	
Santa Monica	12/09/1896	12/19/46	09/26/78		12/12/50		11/28/61	
Sierra Madre	02/07/1907	06/16/49	11/12/69	10/27/81	12/12/50		04/12/49	
Signal Hill	04/22/1924	06/24/47	06/19/79		12/04/50		03/19/51	
South El Monte	07/30/1958	09/03/64	09/19/61	07/01/76	07/21/64		10/17/61	
South Gate	01/20/1923	06/16/49	08/13/84		11/27/50		11/29/48	
South Pasadena	03/02/1888	06/24/47	08/18/71		11/30/50		01/08/47	
Temple City	05/25/1960	09/14/67	12/01/80		06/21/66		04/18/67	
Torrance	05/12/1921	09/12/50	04/15/75	08/09/11	12/12/50		09/11/73	
Vernon	09/22/1905	07/16/51	03/18/80		04/18/51		05/01/51	
Walnut	01/19/1959	08/14/59	06/08/83		06/15/59		06/15/59	
West Covina	02/17/1923	11/29/50	02/11/80		05/25/51		08/27/79	
West Hollywood	11/29/1984	02/26/87	10/20/86		09/18/86		09/18/86	
Westlake Village	12/11/1981	10/08/85	12/20/84		11/14/84		11/14/84	

CA Accredited Disaster Councils as of 7/15/2024

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Whittier	02/25/1898	06/16/49	09/20/83		11/28/50		11/08/48	
Madera	03/11/1893	09/12/50	03/28/72	04/09/91	12/07/50		07/05/50	
Chowchilla	02/07/1923	03/01/51	09/07/66		01/05/51		02/01/51	
Madera	03/27/1903	09/12/50	09/18/78		11/28/50		09/18/50	
Marin	02/18/1850	12/19/46	12/14/82		12/11/50		12/09/46	
Belvedere	12/24/1896	09/12/50	11/01/71		12/04/50		08/07/50	
Corte Madera	06/10/1916	07/16/51	01/03/72		05/19/58		05/19/58	
Fairfax	03/02/1931	06/16/49	03/12/73		12/08/50		12/10/48	
Larkspur	03/01/1908	05/01/51	12/01/71		12/06/50		01/03/51	
Mill Valley	09/01/1900	06/16/49	03/06/72		12/06/50		01/19/49	
Novato	01/20/1960	06/30/72	12/07/71		12/07/71		12/07/71	
Ross	08/21/1908	09/12/50	04/08/71		12/14/50		05/11/50	
San Anselmo	04/09/1907	06/24/47	01/25/72		12/12/50		04/08/47	
San Rafael	02/18/1874	06/16/49	01/15/73		12/04/50		03/22/55	
Sausalito	09/04/1893	09/12/50	10/19/71		12/05/50		07/25/50	
Tiburon	06/23/1964	12/09/66	12/13/71		10/10/66		10/10/66	
Mariposa	02/18/1850	05/01/51	05/24/83		01/05/51	12/06/88	10/25/50	
Mendocino	02/18/1850	12/19/46	03/24/87		12/01/50		01/22/51	
Fort Bragg	08/05/1889	09/12/50	10/26/81	11/09/81	04/09/51		08/16/50	
Point Arena	07/11/1908		07/26/05		12/05/50			
Ukiah	03/08/1876	09/12/50	09/19/73		12/06/50		08/16/50	
Willits	11/19/1888	05/01/51	05/25/83		11/27/50		02/19/51	
Merced	04/19/1855	09/12/50	11/20/90		08/26/58		08/26/58	09/20/72
Atwater	08/16/1922	06/15/51	11/26/62		12/06/50		04/04/51	
Dos Palos	05/04/1935	06/15/51	03/20/51		04/17/51		04/17/51	
Gustine	11/11/1915	09/12/50	03/05/51		12/04/50		08/07/50	
Livingston	09/13/1922	03/01/51	08/07/50		12/04/50		01/16/51	
Los Banos	05/08/1907	06/16/49	01/19/49		01/17/51		01/19/49	
Merced	04/03/1889	11/29/50	01/15/51		12/04/50		11/04/46	
Modoc	02/17/1874	06/24/47	05/19/86	03/20/89	03/04/57		08/21/50	05/19/86
Alturas	09/16/1901	01/27/58	06/11/56		07/09/56		07/09/56	
Mono	04/24/1861	06/16/49	12/10/85		12/04/50		11/22/83	
Mammoth Lakes	03/21/1893	02/26/87	11/20/85		11/06/85		11/06/85	
Monterey	02/18/1850	12/19/46	06/05/90		11/27/50		07/15/46	
Carmel-By-The-Sea	10/31/1916	06/16/49	05/14/79		12/06/50	02/06/63	05/07/79	
Del Rey Oaks	09/03/1953	12/09/66	05/27/75		01/24/55		02/28/55	
Gonzales	01/14/1947	05/01/51	05/05/75		12/05/50		04/03/51	
Greenfield	01/07/1947	03/01/51	04/16/74		12/19/50	03/17/70	03/17/70	
King City	02/09/1911	06/16/49	02/07/51		12/06/50	05/12/70	05/12/70	
Marina	11/12/1975	05/13/77	10/25/76		10/11/76		10/11/76	
Monterey	06/14/1889	06/16/49	12/20/71		12/05/50		09/19/78	
Pacific Grove	07/05/1889	06/16/49	03/21/90		12/20/50		01/05/49	
Salinas	03/04/1874	06/16/49	03/01/71		12/04/50		01/17/49	
Sand City	05/31/1960	10/27/83	07/20/82		07/20/82		07/20/82	
Seaside	10/13/1954	03/15/55	04/20/72		11/18/54		01/20/55	
Soledad	03/09/1921	06/16/49	04/10/51		12/12/50		04/10/51	
Napa	02/18/1850	06/16/49	09/19/72		03/11/52		01/11/49	06/13/67

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American Canyon	01/01/1992	11/21/97	08/07/97		08/21/97		08/21/97	
Calistoga	01/06/1886	06/15/51	11/01/88		12/01/50		12/01/50	
Napa	03/23/1872	06/16/49	11/05/73		12/18/50		05/09/49	
Saint Helena	03/24/1876	06/16/49	01/23/73		11/28/50		08/10/48	
Yountville	02/01/1965		03/04/03		02/04/03		02/04/03	
Nevada	04/25/1851	03/01/51	11/28/89		01/02/51		01/02/51	
Grass Valley	04/15/1861	09/12/50	11/28/72		12/12/50		07/25/50	
Nevada City	04/19/1856	06/15/51	04/12/51		04/12/51		04/13/51	
Truckee	03/23/1993		06/03/93					
Orange	03/11/1889	12/19/46	02/24/87		11/28/50		11/19/46	
Aliso Viejo	07/01/2001	10/23/02	06/05/02		06/05/02		06/05/02	
Anaheim	03/18/1878	06/19/49	09/27/77		11/28/50		04/07/59	
Brea	02/23/1917	06/16/49	04/20/76		12/06/50		05/03/83	
Buena Park	01/27/1953	03/15/55	09/21/87		12/29/53		09/05/78	
Costa Mesa	06/29/1953	03/15/55	11/03/80		04/19/54		04/19/54	
Cypress	07/24/1956	01/27/58	10/21/57		10/21/57		10/28/91	
Dana Point	01/01/1989	03/06/07	04/17/16	04/17/16	01/22/03		01/22/03	04/19/16
Fountain Valley	06/13/1957	04/10/63	02/04/92		12/14/59		01/21/92	
Fullerton	02/15/1904	12/19/46	03/06/51		11/28/50		05/21/46	
Garden Grove	06/18/1956	01/27/58	06/22/71	06/24/75	11/26/57		11/26/57	
Huntington Beach	02/17/1909	06/16/49	11/17/80		02/05/51		06/07/76	
Irvine	12/28/1971	12/07/77	04/26/77	03/26/91	04/12/77		04/12/77	
La Habra	01/20/1925	03/01/51	11/06/73		12/05/50		12/11/73	
La Palma	10/26/1955	01/27/58.	11/04/57		10/07/57		10/07/57	
Laguna Beach	06/29/1927	06/24/47	09/06/72		12/06/50		12/04/46	
Laguna Hills	12/20/1991	12/15/98	10/28/97		10/14/97		10/14/97	
Laguna Nigel	12/01/1989	12/17/98	06/21/94		06/06/90		04/16/93	12/01/98
Laguna Woods	03/24/1999	09/29/03	12/18/02		11/20/02		11/20/02	
Lake Forest	12/20/1991	12/02/99	08/02/94		02/16/99		02/04/92	02/16/99
Los Alamitos	03/01/1960	04/15/68	08/28/72		11/14/67		08/14/72	
Mission Viejo	03/31/1988	01/28/92	12/09/91		06/26/89		06/26/89	
Newport Beach	09/01/1906	12/19/46	10/09/73		12/26/50	12/10/73	12/10/73	
Orange	04/06/1888	06/16/49	08/28/73		12/05/50		08/21/73	
Placentia	12/02/1926	06/16/49	11/06/73		12/05/50		11/16/48	05/19/81
Rancho Santa Margarita	01/01/2000	08/23/04	09/18/03		09/04/03		09/04/03	
San Clemente	02/28/1928	06/16/49	11/01/72		12/06/50	11/01/72	11/01/72	
San Juan Capistrano	04/19/1961	06/30/70	10/23/61		10/23/61		10/23/61	
Santa Ana	06/12/1886	06/16/49	03/19/84		12/21/50		01/07/74	
Seal Beach	10/27/1915	06/16/49	08/21/67		12/27/50		11/25/74	
Stanton	06/04/1956	05/23/58	11/27/72		03/24/58		03/24/58	
Tustin	09/21/1927	06/16/49	04/21/75		12/04/50	06/15/59	04/07/75	
Villa Park	01/11/1962	12/07/77	07/21/77		06/16/77		11/17/77	
Westminster	03/27/1957	01/27/58	09/12/72		12/02/57		08/22/72	
Yorba Linda	11/02/1967	06/30/70	05/17/82		01/15/68		05/03/82	
Placer	04/25/1851	03/07/50	11/16/90		01/22/51		12/13/49	
Auburn	05/02/1888	06/16/49	01/25/72		12/14/50		07/21/48	
Colfax	02/23/1910	12/19/46	11/26/46		04/24/51		11/26/46	
Lincoln	08/07/1890	09/12/50	09/14/71		11/28/50		09/12/50	
Loomis	12/17/1984	11/20/06	12/10/96		10/13/04		10/12/04	
Rocklin	02/24/1893	03/01/51	12/20/71		04/16/51		10/09/50	
Roseville	04/10/1909	06/24/47	10/20/71		12/13/50		04/23/47	

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Plumas	03/18/1854	12/19/46	11/09/76		12/04/50		01/03/51	
Portola	05/16/1946	11/29/50	03/26/73		12/01/50		08/24/50	
Riverside	03/11/1893	12/19/46	11/15/88		12/04/50		12/09/46	
Banning	02/06/1913	07/07/50	06/12/90		11/28/50		12/14/48	
Beaumont	11/18/1912	12/19/46	01/13/75		01/24/51		08/28/46	
Blythe	07/21/1916	03/01/51	11/23/71		04/10/51		02/06/51	
Calimesa	12/01/1990	12/15/98	04/20/91	04/05/93	12/01/90		04/05/93	
Canyon Lake	12/01/1990	11/21/97	12/16/92		01/06/93		01/06/93	
Cathedral City	11/16/1981	10/08/85	01/18/84	02/10/10	01/04/84		01/04/84	
Coachella	12/13/1946	11/29/50	03/21/72		04/02/58		06/18/58	
Corona	07/13/1896	12/19/46	11/20/90		12/05/50		09/07/65	
Desert Hot Springs	09/24/1963	02/24/64	10/08/87		02/19/64		09/15/87	
Eastvale	10/01/2010	10/18/13	12/14/11		08/24/11		11/09/11	
Hemet	01/20/1910	06/16/49	09/25/94		12/04/50		11/01/48	
Indian Wells	07/07/1967	03/30/72	09/08/67		08/01/74		08/01/74	
Indio	05/16/1930	09/12/50	11/03/71		07/17/63		08/02/50	
Jurupa Valley	07/01/2011							
Lake Elsinore	04/20/1988	06/16/49	06/27/77		12/11/50		10/18/48	
La Quinta	05/01/1981	10/08/85	02/07/84		01/17/84		01/17/84	
Menifee	10/01/2008	01/05/10	06/02/09		05/20/09		05/20/09	
Moreno Valley	12/03/1984	03/01/94	08/13/91		06/25/91		06/25/91	
Murrieta	07/01/1991	03/01/94	02/04/92		11/05/91		11/05/91	
Norco	12/23/1964	06/19/67	07/03/72		03/20/67		03/20/67	
Palm Desert	12/16/1973	05/13/77	04/08/76		09/11/75		02/26/76	
Palm Springs	04/20/1938	12/19/46	07/06/83		12/06/50		08/06/80	
Perris	05/26/1911	09/12/50	08/12/68		12/01/50		08/04/50	
Rancho Mirage	07/17/1973	04/08/75	02/06/75		08/01/74		08/01/74	
Riverside	10/11/1883	04/27/48	06/02/87		12/19/50		12/19/72	
San Jacinto	04/20/1888	11/29/50	09/08/70		12/19/50		10/24/50	
Temecula	12/01/1989	11/21/97	08/27/91		02/23/93		02/23/93	
Wildomar	07/01/2008	02/28/10	01/27/10		04/22/09		01/13/10	
Sacramento	02/18/1850	12/19/46	10/01/73		12/06/50		08/16/50	
Citrus Heights	01/01/1997							
Elk Grove	07/01/2000	01/05/11	10/27/10		06/28/06	10/13/10	10/13/10	
Folsom	04/20/1946	11/29/50	12/17/70		12/06/50		09/01/50	
Galt	08/16/1946	09/12/50	08/30/63		11/28/50		05/31/50	
Isleton	05/14/1923	06/16/49	06/02/75		12/04/50		12/06/48	
Rancho Cordova	11/05/2002							
Sacramento	02/27/1850	06/24/47	04/21/81		12/07/50		12/27/46	
San Benito	02/12/1874	12/19/46	02/03/86		12/04/50		10/09/50	
Hollister	03/26/1874	01/23/52	05/20/74		12/18/50		12/18/50	
San Juan Bautista	05/04/1896	06/24/47	12/23/41		12/05/50		12/15/46	
San Bernardino	04/26/1853	12/19/46	01/09/84	06/08/04	01/08/51		10/01/72	08/06/13
Adelanto	12/22/1970	03/30/72	01/26/72		01/12/72	11/09/93	01/12/72	
Apple Valley	11/28/1988	01/28/92	10/31/89		11/27/90		11/27/90	
Barstow	09/30/1947	06/16/49	03/20/78		04/02/51	07/17/78	03/06/78	
Big Bear Lake	11/24/1980	06/16/82	01/13/82		01/27/82		01/27/82	
Chino	03/05/1910	06/16/49	08/05/86		12/19/50		11/05/48	
Chino Hills	12/01/1991	11/21/97	10/11/94		06/14/94		09/27/94	
Colton	07/20/1887	06/16/49	03/16/71		12/19/50		12/20/84	
Fontana	06/25/1952	02/28/53	05/19/87		03/02/54		05/03/83	
Grand Terrace	11/30/1978	06/27/79	01/18/79		01/18/79		01/18/79	

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Hesperia	05/23/1988	04/18/90	08/17/89		07/01/88		08/17/89	
Highland	11/23/1987	03/12/90	08/08/89		07/25/89		07/25/89	
Loma Linda	09/29/1970	05/13/77	12/13/76		05/23/72		12/13/76	
Montclair	04/25/1956	04/30/57	09/17/56	05/16/83	02/04/57		05/16/83	
Needles	10/30/1913	06/15/51	04/17/51		12/05/50		04/17/51	
Ontario	12/10/1891	06/16/49	07/18/89		12/04/50		11/21/89	
Rancho Cucamonga	11/22/1977	06/16/82	05/21/80		12/02/77		04/07/82	
Redlands	12/07/1888	04/27/48	02/01/72		01/18/72		01/18/72	
Rialto	11/17/1911	03/07/50	12/08/77		09/20/71		09/20/71	
San Bernardino	08/10/1869	06/16/49	06/29/71	10/17/90	02/19/51		06/20/82	
Twentynine Palms	11/23/1987	08/16/89	11/08/88		12/02/87		10/25/88	
Upland	05/15/1906	04/27/48	07/06/71	09/02/80	12/07/50		09/02/80	
Victorville	09/21/1962	07/19/63	11/03/87		07/10/63		02/15/83	
Yucaipa	11/27/1989	12/05/97	10/06/97		12/01/89		10/06/97	
Yucca Valley	11/27/1991	10/23/02	11/27/91	05/13/02	08/01/02		06/06/02	
San Diego	02/18/1850	12/19/46	05/12/81		12/11/50		09/03/46	
Carlsbad	07/16/1952	01/26/54	01/02/73		07/21/53		07/21/53	
Chula Vista	10/26/1911	06/16/49	08/01/72		04/10/51		07/29/82	
Coronado	07/13/1896	12/19/46	08/15/72		12/05/50		11/08/50	
Del Mar	07/15/1959	10/18/61	12/04/72		12/01/60		01/30/61	
El Cajon	11/20/1912	06/24/47	01/16/73		12/18/50		10/09/50	
Encinitas	10/01/1986	11/10/87	07/13/87	06/28/89	07/27/87		07/27/87	
Escondido	10/08/1888	11/29/50	09/13/72		12/06/50		10/04/50	
Imperial Beach	07/18/1956	06/30/58	07/18/72		04/02/57		02/23/50	04/02/57
La Mesa	02/16/1912	09/12/50	03/13/51		11/28/50		06/08/82	
Lemon Grove	07/01/1977	01/09/79	11/20/78		11/06/78		12/05/78	
National City	07/28/1887	06/16/49	11/14/72		12/05/50		11/08/50	
Oceanside	07/12/1888	06/16/49	05/23/73		12/13/50		11/10/48	
Poway	12/01/1980	03/10/82	11/10/81		11/10/81		11/10/81	
San Diego	03/27/1850	12/19/46	02/05/74		12/05/50		08/13/46	
San Marcos	01/28/1963	07/19/63	01/22/74		06/25/63		06/25/63	
Santee	12/01/1980	03/10/82	11/09/81		10/26/81		10/26/81	
Solana Beach	07/01/1986	08/16/89	11/16/87		11/02/87		11/02/87	
Vista	01/28/1963	08/05/65	12/11/72		06/25/63		06/25/63	
San Francisco	02/18/1850	12/19/46	02/22/72		04/23/51		09/30/46	
San Joaquin	02/18/1850	07/07/50	03/16/71		01/29/51		06/02/09	
Escalon	03/12/1957	05/08/59	06/21/71		06/02/58		03/12/57	09/03/58
Lathrop	07/01/1989							
Lodi	12/06/1906	09/12/50	06/02/71		04/06/11		07/19/50	
Manteca	06/05/1918	11/29/50	03/05/51	08/04/71	12/04/50		11/21/49	
Ripon	11/17/1945	09/12/50	02/20/51		12/19/50		07/18/50	
Stockton	07/23/1850	06/16/49	04/12/71		12/26/50		11/15/48	
Tracy	07/22/1910	06/16/49	12/15/70		12/05/50		02/15/49	
San Luis Obispo	02/18/1850	12/19/46	09/11/86		12/04/50		10/28/46	
Arroyo Grande	06/11/1911	03/01/51	04/22/75		04/04/51	11/09/71	04/08/75	
Atascadero	07/02/1972	02/26/87	02/14/89		07/14/86		07/14/86	
Grover Beach	12/21/1959	12/04/61	10/04/61		10/04/61		10/04/61	
Morro Bay	07/15/1964	04/25/66	04/27/65		04/27/65		04/27/65	
Paso Robles	03/11/1889	08/11/52	04/16/51		12/04/50		06/02/52	
Pismo Beach	04/25/1946	05/01/51	07/23/73		12/04/50		03/05/51	
San Luis Obispo	02/19/1856	05/01/51	04/17/72		12/04/50		11/06/72	

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San Mateo	04/19/1856	05/01/51	02/01/72		12/05/50		02/20/51	
Atherton	09/12/1923	06/16/49	04/24/73		11/28/50		10/26/48	
Belmont	10/29/1926	06/16/49	03/10/75		12/11/50		09/25/50	
Brisbane	11/27/1961	07/11/62	04/07/75		06/11/62	10/26/64	06/11/62	
Burlingame	06/06/1908	06/24/47	03/15/71		12/04/50		03/07/77	
Colma	08/05/1924	06/15/51	06/11/75		12/13/50		05/09/51	
Daly City	03/22/1911	06/24/47	11/28/77		12/26/50		03/24/47	
East Palo Alto	01/01/1983	08/23/04	12/05/83	12/15/03	11/21/83		11/21/83	
Foster City	04/27/1971	08/20/73	04/14/75	05/21/84	05/29/73		06/11/73	
Half Moon Bay	07/15/1959	12/09/66	09/18/73		01/07/64		07/18/67	
Hillsborough	05/05/1910	06/24/47	02/05/51		12/11/50		09/11/67	
Menlo Park	11/23/1927	06/16/49	12/14/76		11/28/50		10/26/48	
Millbrae	01/14/1948	11/29/50	10/28/75		12/05/50		10/17/50	
Pacifica	11/21/1957	05/23/58	07/09/75		04/05/58		04/05/58	
Portola Valley	07/14/1964	10/08/85	01/15/84	01/25/17	10/14/64		07/28/82	
Redwood City	03/27/1868	06/16/49	02/14/72		12/11/50		08/02/48	
San Bruno	12/23/1914	06/16/49	12/13/71		12/13/50		10/27/48	
San Carlos	07/08/1925	06/24/47	12/10/74		12/13/50	01/14/53	11/24/48	
San Mateo	09/04/1894	12/19/46	09/01/71		04/02/51		10/02/50	
South San Francisco	09/19/1908	06/16/49	09/20/71		12/12/50		11/15/48	04/07/58
Woodside	11/16/1956	01/27/58	05/09/57		05/09/57		12/12/57	
Santa Barbara	02/18/1850	12/19/46	02/21/78		12/04/50		03/13/78	
Buellton	02/01/1992	03/01/94	02/01/92	06/09/94	02/20/92		02/20/92	
Carpinteria	09/28/1965	06/19/67	07/10/72		02/27/67		10/29/73	
Goleta	02/01/2002	11/27/06	09/16/02		09/03/02		09/03/02	
Guadalupe	08/03/1946	06/15/51	02/05/51		12/18/50		05/14/51	
Lompoc	08/13/1888	05/01/51	11/16/71		12/19/50		04/03/51	
Santa Barbara	04/09/1850	06/24/47	05/20/75		12/07/50		01/16/47	
Santa Maria	09/20/1905	06/16/49	01/03/72		12/04/50		12/06/48	
Solvang	05/01/1985	07/30/86	10/10/85		09/26/85		09/26/85	
Santa Clara	02/18/1850	12/19/46	06/15/71		12/04/50		09/03/46	
Campbell	03/28/1952	12/11/52	11/08/71		09/15/52		11/08/71	
Cupertino	10/10/1955	01/27/58	01/18/71	09/18/95	05/20/57		05/20/57	
Gilroy	03/12/1870	05/01/51	09/02/75		03/05/51		03/05/51	
Los Altos	12/01/1952	09/06/55	04/25/67		03/15/55		03/15/55	
Los Altos Hills	01/27/1956	04/16/64	08/20/75	06/19/14	01/20/64		01/20/64	
Los Gatos	08/10/1887	06/16/49	01/18/71		12/18/50		11/13/50	
Milpitas	01/26/1954	03/15/55	08/07/90		09/21/54		10/19/54	
Monte Sereno	05/14/1957	01/14/65	04/21/64		07/07/64		07/07/64	
Morgan Hill	11/10/1906	05/01/51	11/21/84		12/06/50		04/05/51	
Mountain View	11/07/1902	06/16/49	11/28/88		12/06/50		06/04/47	
Palo Alto	04/23/1894	06/24/47	12/20/71		12/26/50		09/25/50	
San Jose	03/27/1850	06/24/47	04/27/76		12/04/50		01/06/47	
Santa Clara	07/05/1852	06/24/47	04/13/71		12/04/50		08/28/79	
Saratoga	10/22/1956	05/08/59	02/17/77		10/01/58		10/01/58	
Sunnyvale	12/24/1912	06/24/47	09/23/75		12/05/50		05/05/47	
Santa Cruz	02/18/1850	12/19/46	02/21/78		11/25/50		10/09/50	
Capitola	01/11/1949	07/07/50	03/12/51		01/08/51		06/05/50	
Santa Cruz	03/31/1866	12/19/46	02/13/51		11/06/50		07/15/46	
Scotts Valley	08/02/1966	08/14/69	03/13/69		03/13/69		03/13/69	
Watsonville	03/30/1868	09/12/50	03/22/72		12/12/50		09/12/50	
Shasta	02/18/1850	03/01/51	06/06/79		12/04/50		01/25/51	

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Anderson	01/16/1956	02/01/57	12/04/56		12/04/56		12/04/56	
Redding	10/04/1887	11/20/50	11/03/58		12/18/50		09/05/50	
Shasta Lake	07/02/1993	09/29/03	06/17/03		06/17/03		06/17/03	
Sierra	04/16/1852	12/19/46	11/20/79		12/01/50		11/01/46	
Loyalton	09/21/1901	06/16/49	09/14/71		11/28/50		06/22/48	
Siskiyou	03/22/1852	03/01/51	03/13/73		04/03/51	01/29/57	12/14/54	
Dorris	12/23/1908	01/27/58	11/04/57		11/04/57		11/04/57	
Dunsmuir	08/07/1909	11/29/50	02/07/51		12/05/50		10/18/50	
Etna	03/13/1878	01/27/58	11/05/56		04/02/51	11/05/56	10/06/58	
Fort Jones	03/16/1872	09/16/74	08/05/74		12/05/50	08/05/74	08/05/74	
Montague	01/28/1909	04/30/57	02/07/57		11/01/56		11/01/56	
Mount Shasta	05/31/1905	01/23/52	01/19/51		12/04/50		01/12/51	
Tulelake	03/01/1937	05/01/51	05/04/59		05/04/59		05/04/59	
Weed	01/25/1961	04/25/66	11/18/65		03/05/64		03/05/64	
Yreka	04/21/1857	11/29/50	03/15/51		12/21/50		06/16/49	
Solano	02/18/1850	06/24/47	03/01/83		11/29/50		01/27/50	
Benicia	03/27/1850	06/16/49	02/06/73		12/05/50		11/03/48	
Dixon	03/30/1878	09/12/50	06/20/72		12/05/50		07/18/50	
Fairfield	12/12/1903	11/29/50	10/05/71		12/05/50		08/22/50	
Rio Vista	01/06/1894	11/29/50	12/05/74		12/07/50		09/07/50	
Suisun City	10/09/1868	11/29/50	08/05/75		12/05/50		10/31/50	
Vacaville	08/09/1892	11/29/50	07/23/74		12/05/50		09/05/50	
Vallejo	03/30/1868	06/24/47	09/11/73		12/04/50		12/11/50	
Sonoma	02/18/1850	12/19/46	03/04/74		11/27/50		10/22/46	
Cloverdale	02/28/1872	06/16/49	03/04/75		12/11/50	01/06/59	08/13/48	
Cotati	07/16/1963	01/14/65	04/19/73		12/17/64		12/17/64	
Healdsburg	02/20/1867	06/16/49	12/21/71		12/04/50		12/04/50	
Petaluma	04/12/1858	06/16/49	08/20/72		12/04/50		04/19/48	
Rohnert Park	08/27/1962	07/19/63	08/20/73		06/03/63		06/03/63	
Santa Rosa	03/16/1868	04/27/48	12/07/71		12/05/50		01/19/51	
Sebastopol	06/13/1902	11/29/50	11/05/73		01/02/51		07/05/50	
Sonoma	06/22/1900	09/12/50	09/25/72		12/06/50		08/02/50	
Windsor	07/01/1992	11/21/97	11/05/97		11/05/97		11/05/97	
Stanislaus	04/01/1854	12/19/46	12/21/79	04/08/08	12/11/50		12/13/46	
Ceres	02/26/1918	06/23/52	07/10/51		12/27/50		06/09/52	
Hughson	11/30/1972	06/06/74	03/21/73		03/21/73		03/21/73	
Modesto	08/06/1884	05/01/51	12/22/71		12/06/50		03/21/51	
Newman	06/10/1908	06/15/51	08/08/72		12/12/50		05/08/51	
Oakdale	11/24/1906	11/29/50	09/02/58		04/02/51		09/11/50	
Patterson	12/24/1919	05/01/51	10/03/72		11/28/50		04/06/51	
Riverbank	08/23/1922	05/01/51	08/28/72		04/09/51		04/09/51	
Turlock	02/15/1908	07/07/50	08/03/71		12/05/50		04/04/50	
Waterford	11/07/1969	03/22/73	04/03/72		03/02/70		02/05/73	
Sutter	02/18/1850	12/19/46	06/28/88		11/30/50		11/04/46	
Live Oak	01/22/1947	06/15/51	04/18/73		05/02/51		05/02/51	
Yuba City	01/23/1908	06/24/47	05/20/74		12/04/50		01/16/50	
Tehama	04/09/1856	12/19/46	07/30/85		12/24/56	05/24/66	08/07/50	
Corning	08/06/1907	11/29/50	07/12/71		12/05/50		10/03/50	
Red Bluff	03/31/1876	05/01/51	03/12/74		03/05/51		04/02/51	

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Tehama	07/05/1906	05/08/59	05/01/74		02/05/58		02/05/58	
Trinity	02/18/1850	12/19/46	07/05/72		01/08/57		09/04/46	
Tulare	04/20/1852	09/12/50	07/17/90		10/31/50		07/11/50	
Dinuba	01/06/1906	06/16/49	06/11/70		11/09/50		11/26/48	
Exeter	03/02/1911	11/29/50	07/14/70		04/11/51		09/13/50	
Farmersville	10/05/1960	04/16/64	06/24/70		03/11/64		03/11/64	
Lindsay	03/05/1910	09/12/50	02/11/63		12/11/50		08/14/50	
Porterville	05/07/1902	06/24/47	11/05/70		12/05/50		05/06/47	
Tulare	04/12/1888	04/27/48	12/01/70		11/08/50		05/01/51	
Visalia	02/27/1874	06/16/49	01/02/62		11/06/50		10/03/50	
Woodlake	09/23/1941	11/29/50	06/08/70		11/27/50		09/19/50	
Tuolumne	02/18/1850	06/24/47	04/29/86		12/01/50		04/02/51	
Sonora	05/01/1851	06/15/51	06/07/71		12/04/50		05/07/51	
Ventura	03/22/1872	12/19/46	01/18/72		03/11/58		01/25/72	
Camarillo	10/22/1964	07/27/70	06/10/70		06/10/70		06/10/70	
Fillmore	07/10/1914	06/16/49	04/27/71		12/12/50	08/24/71	08/24/71	
Moorpark	07/01/1983	08/16/89	03/01/89		03/01/89		03/01/89	
Ojai	08/05/1921	06/16/49	03/28/49		12/26/50		03/28/49	
Oxnard	06/30/1903	07/07/50	02/14/84		12/05/50		04/18/50	
Port Hueneme	03/24/1948	09/12/50	08/18/71		12/26/50	10/06/71	10/06/71	
San Buenaventura	04/02/1866	06/24/47	12/13/71		02/05/51		02/05/51	
Santa Paula	04/22/1902	09/12/50	09/08/70		12/18/50	09/08/70	09/08/70	
Simi Valley	10/10/1969	03/13/74	07/30/84		06/28/71		08/23/71	
Thousand Oaks	10/07/1964	03/30/72	03/09/71		02/16/71		03/02/71	
Yolo	02/18/1850	06/24/47	11/20/79		12/01/50		12/17/46	
Davis	03/28/1917	09/12/50	02/13/51		02/13/51		07/24/50	
West Sacramento	01/01/1987	08/16/89	04/05/89		08/09/89		08/02/89	
Winters	02/09/1898	11/29/50	08/20/74		12/05/50		07/06/48	
Woodland	03/24/1874	06/16/49	09/05/72		12/04/50		07/06/48	
Yuba	02/18/1850	12/19/46	05/25/71	07/21/92	03/05/51		10/07/46	
Marysville	02/05/1851	11/29/50	07/07/71		03/05/51		08/15/50	
Wheatland	04/12/1874	11/29/50	07/06/71		04/02/51		08/21/50	

58 Counties
481 Cities
539 TOTAL

Exhibit 2



State of California
Emergency Plan

October 1, 2017

Edmund G. Brown Jr.
Governor

Mark S. Ghilarducci
Director
California Governor's Office of Emergency Services

Cal OES
GOVERNOR'S OFFICE OF EMERGENCY SERVICES

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OFFICE OF THE GOVERNOR

October 1, 2017

To: Heads of All State Departments, Offices, and Agencies
Heads of City and County Governments
People of the State of California

This updated emergency plan represents the collective effort of emergency services professionals to protect our people, our infrastructure, and our environment against all threats, natural or human caused.

This plan considers the effects of climate change on emergency management and homeland security. As seen recently, climate change has greatly exacerbated floods, wildfires, drought, and other extreme weather events. The ever-lasting threats of destructive earthquakes and acts of terrorism further complicate our mission and underscore the need for comprehensive readiness and resilience.

With deliberate preparation, rapid response and recovery, and government and private industry working together, I am confident that California can withstand the effects of emergencies and disasters now and into the future.

Sincerely,

Edmund G. Brown Jr.

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October 1, 2017

To: Heads of All State Departments, Offices, and Agencies
Heads of City and County Governments
People of the State of California

Protecting the people of California, its resources, and critical infrastructure is a core responsibility of government. Effective emergency response requires a united effort which is reflected in this updated State of California Emergency Plan.

As the Director of the California Governor's Office of Emergency Services, I am charged with executing this Plan under emergency conditions and continuing its development as experience or changing conditions require.

This Plan includes revisions and enhancements to clearly communicate how state government mobilizes and responds to emergencies and disasters in coordination with partners in all levels of government, the private sector, non-profit, and community-based organizations. It also works in conjunction with the California Emergency Services Act and outlines a robust program of emergency preparedness, response, recovery, and mitigation for all hazards, whether natural or human caused.

I request that all political subdivisions of California take the necessary steps to carry out the provisions of this Plan in their jurisdictions to protect our great State and its people.

Sincerely,

MARK S. GHILARDUCCI
Director

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1. Foreword

California is a leader in preparing for emergencies and disasters, both natural and human-caused. The State's role in emergency management dates back to the early 20th century when catastrophic events such as the 1906 San Francisco earthquake highlighted California's significant disaster risk. Today, terrorist threats and actions around the world compound the need for readiness beyond natural disasters. Here's a brief look at California's history of emergency management.

1917 **State Council of Defense** created by the State Legislature to address public security, public health, economic resource development, and military training.

1929 **State Emergency Council** was formed to plan for potential future emergencies.

1933 **Field Act** of 1933 following the Long Beach earthquake marked a significant step in the advancement of earthquake-resistant building design.

1943 **State War Powers Act** was created by the Legislature and divided the civilian war effort into two segments: protective services and war services. The Act also established the California State War Council that assigned certain activities to State agencies.

1945 **California Disaster Act** enacted by the State Legislature. This combined responsibility for planning and preparing for emergencies, whether natural, technological, or human-caused, into a single State agency. During the period from 1945 to 1970 the agency was known variously as the Office of Civil Defense (1950) and California Disaster Office (1956), and functioned under the authority of the California Disaster Act.

1950 **California Civil Defense and Disaster Relief Plan and California Disaster and Civil Defense Master Mutual Aid Agreement.** The relief plan was the first comprehensive emergency plan developed by the State. While its main focus was civil defense, it contained annexes relating to natural disasters. The California Disaster and Civil Defense Master Mutual Aid Agreement under Governor Earl Warren was adopted that same year. It remains to this day a cornerstone of California's emergency management system.

1970 **California Emergency Services Act (ESA)** was enacted to supersede the California Disaster Act. The new Act established the Governor's Office of Emergency Services with a Director reporting to the Governor. The office was given responsibility of coordinating statewide emergency preparedness, post emergency recovery and mitigation efforts, and the development, review, approval, and integration of emergency plans.

1974 **Natural Disaster Assistance Act (NDAA)** authorized the Director of the California Governor's Office of Emergency Services to administer a disaster assistance program that provides financial assistance from the State for costs incurred by local governments as a result of a natural disaster event. The program also provides for the reimbursement of local government costs associated with certain emergency activities. In 2002, the Act was

amended to allow funding for terrorist acts and epidemics, and renamed the Disaster Assistance Act (DAA). The Act was again amended in 2005 to change certain definitions of qualifying projects and renamed the California Disaster Assistance Act (CDAA).

1990 **Americans with Disabilities Act (ADA)** prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The ADA guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life.

1996 **Standardized Emergency Management System (SEMS)** resulted in a major revision of the California Emergency Services Act. With the Incident Command System at its foundation, SEMS emphasizes a standard organizational structure and terminology at all emergency management levels. The system was designed to enhance coordination among response organizations, and facilitate the flow of emergency information and resources within and between the organizational levels.

2006 **Post-Katrina Emergency Management Reform Act (PKEMRA)** amended the Federal Homeland Security Act of 2002 to make extensive revisions to emergency response provisions and provided the Federal Emergency Management Agency (FEMA) with substantial new authority. The Act established a Disability Coordinator within FEMA and developed guidelines to accommodate individuals with disabilities. It also established the national Emergency Family Registry and Locator System.

2006 **California Animal Response Emergency System (CARES)** resulted in a revision to the California Emergency Services Act. CARES provides operational guidance to assist with all aspects of animal care and control in the event of a disaster or emergency. In addition, CARES provides resources for the public, animal businesses, shelters, and emergency planners. CARES is structured in accordance with the Standardized Emergency Management System (SEMS) and the Incident Command System (ICS).

2013 **Sandy Recovery Improvement Act (SRIA)** amended the Stafford Act to include advances to states of up to 25 percent of the amount of estimated cost of post-disaster Hazard Mitigation Grant Program (HMGP) funds, together with other streamlining measures, and to direct FEMA to create a comprehensive national strategy for reducing the cost of future disasters.

2016 **Access and Functional Needs in Emergencies** (Chapter 520, Statutes of 2016) amended the California Government Code to require each county, including city and county, to integrate access and functional needs into its emergency plan upon the next update.

Recent Trends in California's Emergency Management

Since 2008, a variety of emerging trends have influenced emergency management, including the increased diversity of California's population, greater vulnerability to floods and wildland fires as development expands, and the need for more emphasis on disaster recovery and hazard

mitigation efforts to reduce disaster impact. At the national level, significant events such as Hurricane Sandy and the Rim Fire, and internationally, the Tōhoku and Nepal Earthquakes and the November 2015 Paris terrorist attacks, captured the world's attention and widely influenced emergency management today.

California's Terrorism Preparedness

Perhaps most notable is the evolution of terrorism preparedness. While a focus in prior years, terrorism prevention and preparedness changed fundamentally following the September 11, 2001, terrorist attacks in New York, Washington, D.C., and Pennsylvania. Congress enacted the Homeland Security Act of 2002 establishing the federal Department of Homeland Security to prevent, protect against, and respond to acts of terrorism in the United States.

2003 **California's Office of Homeland Security** was established by Executive Order under the Office of the Governor to coordinate security activities throughout California, as well as activities of all State agencies pertaining to terrorism. Homeland Security is a national effort, and California's office extended this collaborative approach through key areas such as information sharing and analysis, infrastructure protection, grants management, training and exercises, and planning and research.

Subsequently in 2004, California implemented the California State Threat Assessment System (STAS) and an associated concept of operations (CONOPS) to guide how the State would effectively share critical homeland security information. The STAS CONOPS also defined California's Terrorism Liaison Officer (TLO) program, which serves as the conduit between members of the public safety community, the public/private sector, California's citizens, and the federal government in the fight against terrorism.

Since 2013, the STAS has refined its response procedures into a Joint Operation Plan that details specific responses to emergencies. The TLO program has also been critical in laying the foundation statewide for the STAS suspicious activity reporting (SAR) program, which is a standardized process for identifying and reporting suspicious activity in jurisdictions statewide.

2008 **Office of Access and Functional Needs (OAFN)** was established in the Governor's Office of Emergency Services. The purpose of OAFN is to identify the needs of people with disabilities and others with access and functional needs before, during, and after a disaster and to integrate disability needs and resources into emergency management systems.

2009 **California Emergency Management Agency** The legislature revised the California Emergency Services Act to merge the Office of Emergency Services and the Office of Homeland Security into the newly-formed California Emergency Management Agency. This new agency consolidates emergency management and anti-terrorism programs to more effectively and efficiently serve the people and political subdivisions of California. This integrated approach to emergency management and terrorism preparedness is

designed to further strengthen the State's ability to address disasters, emergencies, and terrorist events in an all-hazards approach.

2013 **State Government was reorganized** under Governor Brown's Reorganization Plan resulting in an overhaul of Cal EMA. The agency was merged with the Public Safety Communications Office and renamed the California Governor's Office of Emergency Services (Cal OES). The new streamlined Cal OES became a cabinet-level department and began the next chapter in its emergency and public safety services to California.

The Future of Emergency Management and Homeland Security in California

California faces unprecedented threat to life, property, and the environment due to the effects of our changing climate. The State has risen to that challenge and once again stands as a national and global leader in its approach to climate adaptation. California's climate adaptation strategy *"Safeguarding California: Reducing Climate Risk,"* along with the implementation of Executive Order B-30-15 and legislative directives, forge an actionable path toward resilience and readiness for climate change.

The State of California continues actions to build on the ongoing response to record dry conditions and assist recovery efforts from devastating wildfires. To date, the State has committed hundreds of millions of dollars to emergency drought relief, disaster assistance, water conservation, and infrastructure projects. Efforts are also underway to establish a framework for sustainable, local groundwater management for the first time in California's history as required by the Sustainable Groundwater Management Act of 2014.

Cal OES and its emergency management partners will continue to enhance prevention and detection capabilities to protect California from all hazards and threats; and strengthen the ability to prepare for, respond to, recover from, and provide resources to mitigate the impacts of disasters, emergencies, crimes, and terrorist events.

The 2017 State of California Emergency Plan recognizes California's rich and complex history in emergency management and the dedicated personnel that make California a safer place.

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3. Introduction

State agencies, local governments, tribal governments, and others must be prepared to respond to emergencies that might occur within their areas of responsibility and must be able to assess whether their capabilities are sufficient to respond effectively.

The State of California Emergency Plan, hereinafter referred to as the State Emergency Plan (SEP), addresses California's response to emergency situations associated with natural disasters or human-caused emergencies. In accordance with the California Emergency Services Act (ESA)[1], this plan describes the methods for conducting emergency operations, the process for rendering mutual aid, the emergency services of governmental agencies, how resources are mobilized, how the public will be informed, and the process to ensure continuity of government during an emergency or disaster.

The concepts presented in this plan include mitigation programs to reduce the vulnerabilities to disasters and preparedness activities to ensure the capabilities and resources are available for an effective response. To assist communities and governments to recover from a disaster, the plan outlines programs that promote a return to normalcy.

This plan is a management document intended to be read and understood before an emergency occurs. It outlines the activities of all California jurisdictions within a statewide emergency management system and it embraces the capabilities and resources in the broader emergency management community that includes individuals, businesses, non-governmental organizations, tribal governments, other states, federal government, and international assistance.

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4. Basic Plan

There are three parts to the State of California Emergency Plan: The Basic Plan, Functional Annexes, and Appendices.

Basic Plan: The basic plan describes the fundamental systems, strategies, policies, assumptions, responsibilities, and operational priorities California will use to guide and support emergency management efforts. Essential elements of the basic plan include:

- A description of the emergency services provided by governmental agencies and how resources are mobilized;
- An outline of the methods for carrying out emergency operations and the process for rendering mutual aid;
- An overview of the system for providing public information; and,
- Emphasis on the need for continuity planning to ensure uninterrupted government operations.

These elements culminate with a comprehensive emergency management concept of operations that outlines the relationships and responsibilities of State government, its political subdivisions, and other participating organizations.

Functional Annexes: This plan implements Emergency Support Function working groups, which develop functional annexes to describe discipline-specific goals, objectives, operational concepts, capabilities, organizational structures, and related policies and procedures. The functional annexes were developed separately from the basic plan and reference existing agency and department plans and procedures. Supporting plans and documents are listed in an attachment to each functional annex.

Annexes and Appendices: Subsequent plans and procedures developed in support of the State Emergency Plan, such as mutual-aid plans, hazard-specific plans, catastrophic plans, and related procedures, will be incorporated by reference and maintained separately from the basic plan. These supporting plans may be appended to the end of the basic plan.

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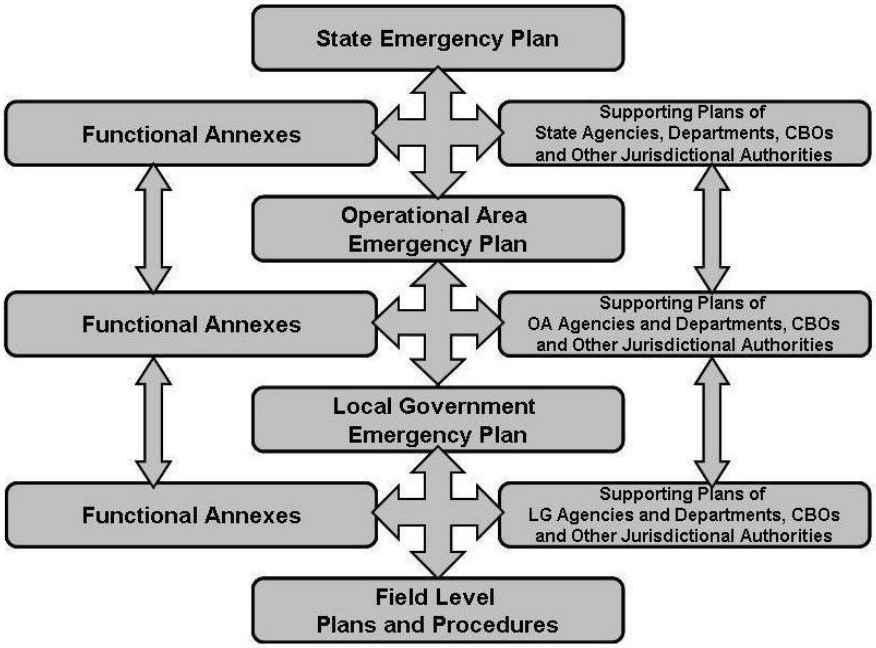
5. Purpose and Scope

The State Emergency Plan provides a consistent, statewide framework to enable state, local, tribal governments, federal government, and the private sector to work together to mitigate, prepare for, respond to, and recover from the effects of emergencies regardless of cause, size, location, or complexity. In accordance with the California Emergency Services Act (ESA)[2], this plan is in effect at all times and applies to all levels of State government and its political subdivisions.

The plan incorporates and complies with the principles and requirements found in federal and state laws, regulations, and guidelines. It is intended to conform to the requirements of California's Standardized Emergency Management System (SEMS), the National Incident Management System (NIMS) and be consistent with federal emergency planning concepts such as the National Response Framework (NRF) and catastrophic concept of operations (CONOPS) documents developed jointly by the Federal Emergency Management Agency (FEMA) Region IX and the State. CONOPS are developed in support of the State Emergency Plan.

This plan is part of a larger planning framework that supports emergency management within the state. ***Exhibit 5-1 – Emergency Plan Interface*** illustrates the relationship of the State Emergency Plan to other state plans and its political subdivisions. Through an integrated framework of emergency plans and procedures involving all stakeholders in the emergency management community, California promotes effective planning and coordination prior to an emergency, thereby ensuring a more effective response and recovery.

Exhibit 5-1 – Emergency Plan Interface



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6. Situation and Assumptions

6.1. POPULATION

California is the most populous state in the nation with an estimated population of 38.7 million in 2015.[3] Between 1950 and 2008, the State's population tripled. California's population is expected to reach 41 million by 2020 and almost 50 million by 2050.[4] In addition to the permanent population, California was the destination of 234.8 million domestic leisure and business travelers in 2014, along with 16.5 million international travelers.[5,6]

The state is divided into 58 counties and subdivided into over 482 incorporated cities.[7] Eight of the top 50 U.S. cities in terms of population are in California and include Los Angeles, San Diego, San Jose, San Francisco, Long Beach, Fresno, Sacramento, and Oakland.[8]

With a gross state domestic product of $2.46 trillion in 2015, California's economy is sixth in the world.[9] California's economic strength and vitality is attributed to a variety of industries including, but not limited to, tourism, entertainment, agriculture, technology, and wine production.

According to the U.S. Census of 2014, approximately 3.8 million (10%) Californians over the age of five years have a disability. The state's population of older adults is also growing and, according to the California Department of Aging, in California there will be approximately 8.5 million people over the age of 60 by 2020 (21%), and almost 12.5 million people over the age of 60 by 2040 (25%).[10]

Most disaster response systems and plans are designed for people who can walk, run, see, drive, read, hear, speak, and quickly respond to alerts and instructions. This presents challenges for adults and children with disabilities and others with access and functional needs. This population may suffer severe and less forgiving consequences without essential support. The margin of resiliency in emergencies is smaller and the impact is higher.

Individuals with access and functional needs include, but are not limited to those who have/are:

- Physical, intellectual, developmental and mental health-related disabilities
- Blind/visually impaired
- Deaf/hearing impaired
- Mobility impairments
- Injuries
- Chronic conditions
- Older adults
- Infants and children
- Living in institutionalized settings
- Poor or homeless

- Limited English proficiency or are non-English speakers
- Transportation disadvantaged

6.2. GEOGRAPHY

California is the third largest state in the nation with an area of 155,959 square miles within a land mass that is 770 miles long and 250 miles wide. The state has 1,370 miles of coastline along the Pacific Ocean to the west, shares 990 miles of border with three other states (Oregon to the north, and Nevada and Arizona to the east) and has approximately 140 miles of international border with Mexico to the south.

Over 40 percent of California's land area is covered by forest and about 25 percent of the total land area is covered in deserts. There are 47 million acres of federal lands in California that are managed by 14 agencies. Federal lands include national parks and forests, and military bases. An additional 2.4 million acres are owned by the State of California with 1.3 million acres of that designated as state parks.

California's geologic and geographic extremes are demonstrated by the fact the state has both the highest (Mt. Whitney) and the lowest (Death Valley) elevation points within the contiguous United States. Given this diversity, the climatic conditions vary significantly depending on latitude, elevation, and proximity to the coast. Most of California has cool, rainy winters and dry summers. Areas near the ocean typically experience cooler summers and warmer winters, while inland areas experience hotter summers and colder winters. Northern California generally receives more rainfall than the southern part of the state. High desert climates are found east of the Sierra Nevada, and the Transverse and Peninsular ranges of southern California. The high deserts, which include the Mojave Desert, the Owens Valley, and the Modoc Plateau, are part of the Great Basin region and experience hot summers and cold winters. The low deserts east of the southern California mountains, including the Imperial Valley, Coachella Valley, and the lower Colorado River basin, are part of the Sonora Desert with hot summers and mild winters.

Two river systems, the Sacramento and the San Joaquin, form the principal freshwater system in California. The Sacramento River flows south for 377 miles from Cascade Range near Mount Shasta, while the San Joaquin River flows northwest for 350 miles from the Sierra Nevada mountain range near Yosemite. Both rivers feed into the Sacramento-San Joaquin Delta, which serves as a critical water supply hub for California, and contains a rich and productive habitat. Water from the Sacramento-San Joaquin Delta provides drinking water for nearly 23 million people, almost two-thirds of California's population, and provides irrigation water to the Central Valley.[11]

6.3. HAZARDS AND VULNERABILITIES

A hazard represents an event or physical condition that has the potential to cause fatalities, injuries, property damage, infrastructure damage, agricultural losses, damage to the environment, interruption of business, or other types of harm or loss. Earthquakes, floods, and wildfire hazards represent the pervasive and primary events that result in disaster losses. Secondary hazards

include levee failure, landslides, and tsunamis. For a complete list of hazards considered by the State related to mitigation, please refer to the State of California Enhanced Multi-Hazard Mitigation Plan (SHMP) at www.caloes.ca.gov.

Vulnerability indicates the level of exposure of human life and property to damage from natural and human-caused hazards. California and its people are vulnerable to a wide range of hazards that threaten communities, businesses, government, and the environment.

Substantially populated counties are found in southern California, the San Francisco Bay Area, Delta region, and Central Valley. Many of these regions are threatened by multiple hazards.

The severity of emergencies is determined not only by the occurrence of natural events (that may be increasing in magnitude and frequency due to climate change), but also on the level of exposure and socio-economic vulnerability to those events. Climate impacts, including extreme weather events, sea level rise, changing temperature, precipitation patterns, and severe and frequent wildfires, present new risks that impact all phases of emergency management. While the scope, severity, and pace of future climate change impacts are somewhat difficult to predict, it is clear the impacts from climate change will have bearing on emergency management capabilities and cause an increased need for services.

Given the current effects of climate change, and the anticipated increase in effects projected for the future, climate must be considered in all phases of emergency management: preparedness, response, recovery, and mitigation. California continues to move forward and work with stakeholders, all levels of government, and federal and international partners to build climate adaptation and community resiliency strategies into planning and preparedness efforts. The State of California Enhanced Multi-Hazard Mitigation Plan incorporated climate in 2007, and the State continues to work to build community resiliency through mitigation actions, helping to lessen the impacts of, and recovery from emergency events.

Below are examples of the hazards and vulnerabilities faced in the state based on the SHMP:

6.3.1.EARTHQUAKE

California sits on the boundary between two major tectonic plates – the Pacific and North American – which move past each other at the rate of two inches per year. Much of the motion is accommodated periodically by a sudden slip along the boundary and on the faults around it, producing earthquakes. The San Andreas Fault zone is the juncture of these two tectonic plates, traversing the western part of the state from the Salton Sea in the southeast to Cape Mendocino to the north. Although the San Andreas Fault is the main location of the slip, hundreds, if not thousands, of other faults splay out from the plate boundary, spreading the threat of large earthquake ruptures through most of the state. The San Andreas ends near Cape Mendocino the fault boundary transitions to the Cascadia Subduction Zone. This subduction zone is a source of major earthquakes along California's northern coast where the Pacific, Juan de Fuca, and North American Plates form a "Triple Junction". According to the California Geological Survey, hundreds of fault zones have been identified in the state, of which about 200 are considered potentially hazardous based on their slip rates in recent geological time (the last 10,000 years).

More than 70 percent of California's population resides within 30 miles of a fault where strong ground shaking could occur in the next 30 years. Statewide, approximately 22 million people live in areas that could experience shaking intensities strong enough to damage many types of structures. Highly populated counties are potentially exposed to substantial earthquake shaking hazards in southern California, the San Francisco Bay Area, Delta Region, and Central Valley. In 17 counties, more than 90 percent of the population lives where shaking can be strong. Although infrequent, major earthquakes have accounted for and continue to have the greatest potential for loss of life, injury, and damage to property.

According to the Federal Emergency Management Agency (FEMA), nearly 70% of the national earthquake risk – an annualized loss of $3.1 billion dollars – is concentrated in the State of California.[12] Growing urbanization and increasing reliance on complex infrastructure for power, water, telecommunications, and transportation magnify that risk.

6.3.2.FLOOD

Flooding poses a serious risk to life, property, and public health and safety and could devastate the state's economy. Flooding can affect the state at different times and in different ways based on the complexities and diversity of the land, hydrology, and climate – from storm water flooding in urban areas to alluvial fan flooding at the base of hillsides; from fast-moving flash floods in Southern California to slow-rise deep floods in the Central Valley.

Examples of past flooding include an event in January 1993 when more than 10 inches of rain fell in western Riverside County causing flooding that damaged roads, bridges, homes, and businesses. Seven people lost their lives on flooded roads. More recently in 2005-06, severe storms overwhelmed the Sacramento River Region causing slow-rise flooding, mudslides, and landslides impacting 14 counties and resulting in over $128 million in damages.

Substantially populated counties with disproportionately high numbers of individuals with a disability or an access or functional need are in flood-prone areas of southern California, the San Francisco Bay Area, Delta region, and Central Valley. In addition, many urban and rural areas are not protected by levees and are subject to recurring, seasonal flooding by local rivers or streams.

- Over five million Californians, or approximately 15 percent of the total population, live in a Flood Insurance Rate Map (FIRM) designated floodplain. Most of this population resides in expanding urban centers located in floodplains where flooding could result in extensive loss of life and billions of dollars in damages.

- The potential direct flood damages in the Sacramento area alone could exceed $25 billion. Some areas of the Central Valley could experience flood depths of twenty feet or more if a levee fails.

6.3.3.FIRE

Depending upon terrain and vegetation, wildfire hazard risk exposure is generally pervasive, with high concentrations in southern California. Since 1954, 73 percent of presidentially declared disasters in California were the result of wildfires.[13]

- Over the past 57 years, wildfires have claimed 97 lives, resulted in 1,504 injuries, and $2.1 billion in California Governor's Office of Emergency Services (Cal OES) administered disaster costs.

- Approximately 37 million acres within California are at risk from wildfire, with 17 million acres at high risk. A total of 7.8 million acres of California are developed with housing unit densities considered to meet the Wildland-Urban Interface (WUI) criteria, and a total of 11.8 million homes are located in the WUI.

- California continues to face multiple years of statewide, severe drought conditions. One of the compounding impacts of drought is the state's fire threat – resulting in unprecedented fire behavior and activity changes. As a sobering example, the third and seventh most destructive fires in the state's recorded history, Valley and Butte, occurred in 2015.

The California Fire Service Task Force on Climate Impacts was established in July 2014. The Task Force is comprised of members from local, state, and federal jurisdictions, and continues to build upon the State's Blue Ribbon Fire Commission which was initially established following the 2003 wildfires. The objectives of the Task Force are to review the past Blue Ribbon Fire Commission recommendations and action plan, validate, and prioritize items that remain outstanding, and evaluate the most current climate threats, science, studies, and recommendations. The Task Force will also, as necessary, develop new or updated recommendations related to wildfire preparedness and mitigation needed to successfully adapt to California's changing climate, aligning actions and recommendations with the State's climate adaptation strategy and related efforts.

6.3.4.VOLCANIC ERUPTION

Volcanoes can be found throughout California from Shasta and Lassen in the north to the Long Valley Caldera and Salton Buttes in the south. There is a mixture of high and very-high threat volcanoes to moderate and low-threat volcanoes.[14] Hazards from volcanoes include mud and debris flows, lava, pyroclastic flows, volcanic gases, fragments of volcanic rock, and lava. Volcanic ash can also significantly impact air travel, transportation, communications, and utilities.

- In the northern part of the state, volcanoes considered to be high or very-high threat are Lassen Volcanic Center, Medicine Lake, Mount Shasta, and Clear Lake Volcanic Field. In the central and southern part of the state, volcanoes considered to be high or very-high threat are Long Valley Caldera, Mono-Inyo Chain, and Salton Buttes.

- California also has geothermal and steam fields, located adjacent to volcanic centers throughout the state, being harnessed to generate power. The heat driving the geothermal systems emanates from zones of partially molten rock (magma) deep below the surface.

- Occasionally volcanoes and the surrounding areas experience periods of heightened unrest detected by the United States Geological Survey (USGS) California Volcano Observatory monitoring systems. Current monitoring specifically tailored to each volcano may include seismicity, gases, and global positioning systems to detect inflation or deflation in volcanic areas.

- Lassen Volcanic Center is the site of the state's most recent eruption lasting from 1914 to 1917. Lassen Volcanic National Park draws over 350,000 visitors each year.

- Located in the Mammoth area of the Eastern Sierra, the Long Valley Caldera is a large volcanic depression that formed during an explosive eruption about 700,000 years ago. The town of Mammoth Lakes hosts an estimated 2.8 million visitors per year.

6.3.5.LANDSLIDE

Landslides commonly occur in connection with other major natural disasters such as earthquakes, volcanic eruptions, wildfires, and floods; however, landslides can also be caused by normal, seasonal rainfall or erosion.

- Expansion of residential and recreational developments into hillside areas leads to more people threatened by landslides each year.

6.3.6.DAM AND LEVEE FAILURE

California has over 1,400 dams and over 13,000 miles of mostly earthen levees that protect the state's residents, agricultural lands, and water supply.[15]

- Nine dam failures have occurred since 1950. Although rare, dam failures can cause sudden and catastrophic flooding in communities downstream and disrupt the state's water supply.

- Levees are subject to failure without warning, but are especially subject to failure during an earthquake or flood. There have been 140 levee failures in California in the past ten years.

6.3.7.SEVERE WEATHER

- Extremely hot or cold temperatures can result in death, especially among the medically fragile and elderly, and have significant impacts on agriculture. Approximately 20 people

die each year from heat-related emergencies, but a severe or extended heat wave can cause more casualties. For example, a 13-day heat wave in 2006 resulted in 136 deaths.

- Multi-year droughts may result in water shortages, which impact water available for human consumption and agriculture production in the more arid areas of the state.

With California facing one of the most severe droughts on record, in January 2014 Governor Brown proclaimed a State of Emergency due to current drought conditions. An interagency Drought Task Force was convened to monitor drought impacts and advise on actions to be taken if drought conditions worsen. The Drought Task Force also developed a plan for provision of emergency food supplies, financial assistance and unemployment services in communities that suffer high levels of unemployment due to drought conditions.

In September 2014, Governor Brown issued an Executive Order authorizing Cal OES to provide California Disaster Assistance Act (CDAA) funding for local government assistance to provide emergency water supplies to households without water for drinking and/or sanitation purposes.

6.3.8.TSUNAMI

A tsunami is a series of sea waves caused by displacement of a large volume of water typically as a result of an undersea earthquake or landslide. A seismic or other geological incident in the Pacific Ocean may cause tsunami activity along the California coast, including impacts to ports/harbors and the maritime community, and inundation of dry land. In the open ocean, tsunamis can travel over 500 miles per hour (mph), the speed of a jet airplane, and are barely perceptible to ships at sea. However, as tsunami waves reach shallow water, they slow in speed but grow in height. At the shoreline, tsunami waves may range in height from a few inches to over 30 feet.

Normal, wind-driven ocean waves move only the surface layer of the water. In contrast, tsunami waves are longer in length, and move the entire "column" of water from the ocean floor to the surface. As a result, tsunami waves have increased power to inundate or flood low-lying coastal areas, making them far more dangerous and destructive than normal ocean waves.

The first wave is almost never the largest. In addition, unlike normal ocean waves, the wave period or time between tsunami waves may vary from a few minutes to up to two hours. As a result, damaging tsunami waves may last for hours or days. Tsunamis can also cause powerful, dangerous currents in harbors, ports, and other shoreline areas that may last for several days after the initial tsunami wave.

- Depending on the location of an incident, a tsunami can reach the California coast in as little as ten minutes, for a local-source earthquake, or take from five to 14 hours, for a distant-source earthquake. The Great Alaskan earthquake of 1964 generated a tsunami that killed 12 people and destroyed 30 blocks in Crescent City, California.

- The coast north of Cape Mendocino is at risk of a tsunami generated locally by the Cascadia Subduction Zone Fault. All of California is at risk of a tsunami generated

distantly from a subduction zone in Alaska, Japan, Chile, or the South Pacific. Strike-slip earthquake faults (like the San Andreas) may generate landslide-induced tsunamis significantly affecting localized areas.

- The magnitude 9.0 Tōhoku, Japan earthquake of 2011 generated a tsunami that gravely impacted Japan and traveled across the Pacific Ocean where it impacted the California coastline. The wave surges and currents had sufficient energy to destroy the harbor in Crescent City, extensively damage the harbor in Santa Cruz, and cause damage to the harbors of San Luis Obispo, Santa Cruz, San Mateo, Del Norte, Mendocino, and Humboldt Counties. The total damage for all affected counties was $75,920,959[16] and the State of California received a Presidential Disaster Declaration.

- California was placed into a tsunami alert, activating the state emergency response system, five times in the last six years based on distant tsunamis expected to impact the state's coast: Samoa in 2009[17], Chile in 2010[18], Japan in 2011[19], British Columbia, Canada in 2012[20], and Chile in 2015.[21]

6.3.9.HAZARDOUS MATERIALS EMERGENCY

California has approximately 160,000 businesses regulated for storing, transporting, or handling hazardous materials. There are also four nuclear power plant sites in the state, one of which is operational and three in the process of being decommissioned. General categories of hazardous materials include chemical, biological, radiological, nuclear, explosive, oil spills, and any incident that results in the release of agents into the environment including stationary sources, railway, ports, and highways.

- There are about 6,600 hazardous materials releases each year. Depending on the severity of release and type of material, a hazardous materials emergency may cause injury, death, property damage, environmental damage, or may result in orders to evacuate or shelter in place.

- In January 2014, the Governor's Office convened a Rail Safety Working Group to examine safety concerns and recommend actions the State of California and others should take in response to the emerging risk posed by increased shipments of crude oil or other hazardous materials by rail into California.

    - During 2015 there was a dramatic increase in oil coming into California by rail. Recent reports indicate that the Western United States may bring 500,000 barrels of "light" oil by rail a day. The increase in transporting this highly flammable "light" crude oil from Bakken Shale production area will result in a raised the threat to Californians and our environment by increased risk of derailments, explosions, fires, accidental releases, and the potential for crimes and terrorist acts.

6.3.10.ENERGY DISRUPTION

California obtains electric power from a variety of in-and out-of-state sources, including gas-fired power plants, nuclear power plants, hydropower, and renewable sources such as wind, geothermal, and solar power. California produces both natural gas and petroleum, but imports more than it produces; in 2007, California imported over 90 percent of its natural gas and nearly 63 percent of its crude oil, either from other states or from other countries.[22]

- California's energy production, storage, and distribution systems are vulnerable to physical hazards as well as shortages caused by market forces, weather, and operating conditions. For example, incidents like the Aliso Canyon leak, during which nearly 100,000 tons of methane gas escaped, may lead to blackouts or disruption in the production of energy.

- Energy disruption may have significant impacts on the state's economy, environment, and standard of living. During extreme weather, an energy disruption may result in a risk to public health and safety.

6.3.11.FOOD AND AGRICULTURE EMERGENCY

Agriculture includes animal and plant products produced and consumed within the state. Damage to agriculture, including loss of crops and death of animals, may be the secondary impact of natural or technological disasters, or may result from disease and pest infestation. The following are examples where support and coordination may be necessary:

- Disruption in production or distribution of agriculture products leading to food shortages. Currently hundreds of thousands of acres of farm land are fallow due to drought conditions.

- Agriculture products, whether those produced within California or those shipped into the state, at risk of contamination at various points in the production cycle.

- Food contamination resulting in both localized and widespread food-borne illness causing a public health emergency.

- Any foreign animal disease (FAD) outbreak such as Exotic Newcastle, Foot and Mouth Disease or High Path Avian Influenza, and response to FAD.

- Animal health and food safety services to protect public health, protect the health of California's livestock and poultry, and provide safety of food at animal origin.

- Testing for possible contamination of fuel supplies. Following a disaster, it may be necessary to ensure the accuracy of commercial weighing and measuring devices, verify

the quantity of both bulk and packaged commodities, and enforce labeling standards for petroleum products.

6.3.12. CIVIL UNREST

Civil unrest is usually triggered by dramatic political or social events. Every major metropolitan area in California has experienced and is at risk for civil unrest.

- The most recent and significant civil unrest incident in the state was the 1992 Los Angeles Civil Disturbance that resulted in 53 deaths, over 2,300 injuries, and over $800 million in damages. This event also precipitated simultaneous, but smaller, incidents throughout California and the country.

6.3.13. PANDEMIC AND EPIDEMIC

A disease outbreak can cause illness and result in significant casualties. Since 1900, there have been four influenza pandemics that killed approximately 775,000 people in the United States.[23]

- In 2007, approximately 380 cases of West Nile Virus resulted in 21 deaths.

- The H1N1 Influenza Pandemic (originally referred to as "swine flu") caused a world-wide pandemic in 2009 and had the first documented cases in California in April 2009. An estimated 7,500 to 44,100 deaths were reported in the United States and an estimated 575,400 deaths worldwide.

- In 2014, a rapidly evolving outbreak of Ebola was identified in Guinea, West Africa. As of December 2015, the World Health Organization counts 28,637 cases of Ebola virus and 11,315 deaths. The United States had four cases of Ebola treated in Texas and New York.

- In mid-2016, an outbreak of Zika virus rapidly spread across the western hemisphere. Zika causes fetal microcephaly (abnormally small head and brain) and other pregnancy complications. While not native to California, mosquitos that transmit the virus have been discovered in 12 counties since 2011. According to the Centers for Disease Control and Prevention (CDC), there have been 375 travel-associated cases of Zika virus diagnosed in California as of December 2016, but no locally acquired cases of the disease have been identified.

The 2014 Ebola virus and 2016 Zika outbreaks highlight how, in the absence of a functional health system to monitor the public health situation and quickly develop an integrated response, an epidemic can proliferate rapidly and pose significant problems to our communities.

State and local public health officials in California monitor the public health situation closely and take steps to keep Californians safe. Our advanced health care system has appropriate protocols

in place to prevent the spread of diseases. New and updated guidelines are regularly released by California Department of Public Health.

6.3.14.TERRORIST ATTACK

California's population, industrial infrastructure, economic importance, international reputation, media industry, and numerous iconic features combine to make the state a potential target for both domestic and international terrorist attacks. Terrorists typically exploit vulnerabilities caused by technological hazards and may include hazardous materials release; biological agents that result in epidemics; or attempts to damage the state's critical infrastructure including cyber-attacks, which pose potentially devastating disruptions to essential communications such as voice, email, and Internet connectivity.

Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) weapons are a threat to the people of California. Chemical weapons, biological agents, and explosive devices are used to cause fear and to injure or kill. Radiation Dispersal Devices (RDDs) are explosive devices that contain radioactive materials to spread contamination causing disruption of normal activities. An Improvised Nuclear device (IND) is a nuclear weapon bought or stolen from a nuclear state, or a weapon fabricated by a terrorist group from illegally obtained nuclear weapons material, that produces a nuclear explosion and causes widespread destruction from the blast as well as dangerous radioactive fallout over large areas.

Although traditional nuclear weapons, RDDs, or INDs have not been used by foreign governments or terrorists to date, these unlikely events would have extremely high consequences. A nuclear detonation would challenge the capacity of public health and first responder systems, and have widespread impacts to the public at large.

California's CBRNE response capabilities are the foundation of our response to terrorist threats. Planning from local governments to the state encompass the response to the possible use of these weapons. Leveraging existing CBRNE capabilities from local Hazardous Materials Teams to our National Guard CBRNE specific response teams provide capabilities to address any attack or accident.

- The Department of Homeland Security deployed BioWatch to California after the Amerithrax attacks in 2001, in order to protect citizens from future biological attacks. BioWatch is a capability that is designed to detect specific biological agents of concern in the environment prior to symptom onset in humans. The California BioWatch Advisory Committee finalized both statewide notification and risk communication protocols and is in the process of creating a concept of operations for emergency response for a BioWatch detected bioterrorism attack.

- Recent events in Paris, France and San Bernardino, California have heightened sensitivity to Active Shooter situations. Active Shooter incidents can materialize from a variety of situations to include domestic violence, internal employee issues such as terminations, persons suffering from mental illness, and terrorism. California began addressing Active

Shooter incidents in schools after the Columbine incident and renewed training efforts after the Paris and San Bernardino incidents.

- Cal OES has a dedicated Active Shooter Program: a two hour on-site training presentation designed to heighten employees' awareness of their surroundings and provide tips and tools for persons who find themselves in a facility where an active shooter incident is occurring. Cal OES has also developed an Access and Functional Needs (AFN) Active Shooter Guidance document and training curriculum. The guidance outlines what individuals with a disability or an AFN should do to preserve life and promote safety. It also informs law enforcement and first responders about the AFN considerations they need to integrate within their active shooter protocols.

6.3.15.CYBER ATTACK

Cyber threats to California's security are increasing in frequency, scale, sophistication, and severity. The ranges of cyber threat actors, methods of attack, targeted systems, and victims are also expanding. The U.S. government's cybersecurity 2015 assessment of the likelihood of a catastrophic cyber-attack that debilitates the entire U.S. infrastructure is remote; instead, low-to-moderate level cyber-attacks from a variety of sources, which will impose cumulative costs on economic competitiveness and security, are expected.

- Cybercrime is estimated to cause between $375-575 billion annually in global damages and losses. California has a wide variety of Internet-related businesses, both in the development cycle and the e-commerce sector, making the state an attractive target for cybercriminals. Cybercriminals also target personal information stored online for use in fraudulent activities. Healthcare, financial institutions and e-commerce are typical targets of criminal data breaches of personal information.

- California is home to a number of Academic Centers of Excellence, military technology firms, and research facilities—all attractive targets for nation-states or potential adversaries who may be seeking to target the United States with a cyber-attack.

Though a large scale cyber-attack has not been observed in the U.S., it remains a possibility because malicious cyber actors, terrorist groups and their supporters, and nation-states have demonstrated both an interest in and the ability to disrupt their adversaries' cyber infrastructure. California has a high number of Internet-facing industrial control systems which operate and regulate critical infrastructure including oil facilities, electricity, and Internet backbone lines. A cyber-attack on any of these or on the emergency services sector could cause severe disruption and loss of life.

6.4.ASSUMPTIONS

Below are assumptions reflecting the situations that must be considered in order to achieve effective emergency management in California:

- All incidents are local.
- Emergencies may occur at any time with little or no warning and may exceed capabilities of local, state, federal, tribal governments and the private sector in the affected areas.
- Emergencies may result in casualties, fatalities, and displace people from their homes.
- An emergency can result in property loss, interruption of essential public services, and damage to basic infrastructure, and significant harm to the environment.
- Individuals with access or functional needs may require resources or assets such as durable medical equipment or assistive technology that are limited in number and difficult to procure without planning.
- The greater the complexity, impact, and geographic scope of an emergency, the more multiagency coordination will be required.
- The political subdivisions of the state will mobilize to deliver emergency and essential services under all threats and emergencies.
- Mutual aid and other forms of emergency assistance will be provided when impacted jurisdictions exhaust or anticipate exhausting their resources.
- Individuals, community-based organizations, and businesses will offer services and support in time of disaster.
- State agencies and departments with regulatory oversight responsibilities will continue in their same roles during all phases of an emergency. During response and recovery, they will provide emergency assistance, including resources, through the emergency management system.
- Neighboring states will assist California through the Emergency Management Assistance Compact (EMAC) and/or other mechanisms and agreements.
- The federal government will provide emergency assistance to California when requested and in accordance with the National Response Framework (NRF).
- Federal and state response and recovery operations will be mutually coordinated to ensure effective mobilization of resources to and in support of the impacted jurisdictions in accordance with the California Catastrophic Incident Base Plan: Concept of Operations dated September 23, 2008.

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7. Emergency Management Organization

7.1. STANDARDIZED EMERGENCY MANAGEMENT SYSTEM (SEMS)

The Standardized Emergency Management System (SEMS) is the cornerstone of California's emergency response system and the fundamental structure for the response phase of emergency management. SEMS is required by the California Emergency Services Act (ESA)[24] for managing multiagency and multijurisdictional responses to emergencies in California. The system unifies all elements of California's emergency management community into a single integrated system and standardizes key elements. SEMS incorporates the use of the Incident Command System (ICS), California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA), the Operational Area (OA) concept and Multi-Agency Coordination (MAC) process. State agencies are required to use SEMS, and local government entities must use SEMS in order to be eligible for any reimbursement of response-related costs under the State's disaster assistance programs.

SEMS is supported through the SEMS Maintenance System. The purpose of the maintenance system is to formalize and institutionalize a process for the continued maintenance of California's system for emergency management. The system organization consists of three levels: SEMS Advisory Board, SEMS Technical Group (supported by Specialist Committees and a Cal OES SEMS Support Unit), and SEMS Mutual Aid Regional Advisory Committees (MARAC). Further information can be found in the SEMS Guidelines.

7.1.1. SEMS ORGANIZATION LEVELS

There are five SEMS organization levels, as illustrated in ***Exhibit 7-1 – SEMS Organization Levels.***

Exhibit 7-1 – SEMS Organization Levels



- **Field** – The Field Level is where emergency response personnel and resources, under the command of responsible officials, carry out tactical decisions and activities in direct response to an incident or threat.

- **Local Government** – The Local Government level includes cities, counties, and special districts. Local governments manage and coordinate the overall emergency response and recovery activities within their jurisdiction. Local governments are required to use SEMS when their Emergency Operations Center (EOC) is activated or a local emergency is declared or proclaimed in order to be eligible for state reimbursement of response-related costs.

- **Operational Area (OA)** – An OA is the intermediate level of the State's emergency management organization which encompasses a county's boundaries and all political subdivisions located within that county, including special districts. The OA facilitates and/or

coordinates information, resources, and decisions regarding priorities among local governments within the OA. The OA serves as the coordination and communication link between the Local Government Level and Regional Level. State, federal, and tribal jurisdictions in the OA may have statutory authorities for response similar to that at the local level.

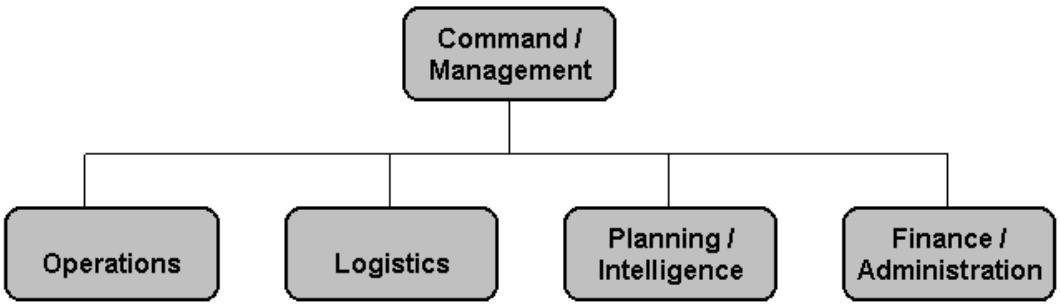
- **Region** – The Regional Level manages and coordinates information and resources among OAs within the mutual aid region and also between the OAs and the State Level. The Regional Level also coordinates overall State agency support for emergency response activities within the region. California is divided into three Cal OES Administrative Regions – Inland, Coastal, and Southern – which are further divided into six mutual aid regions (see Exhibit 10-1 – Mutual Aid Regions). The Regional Level operates out of a Regional Emergency Operations Center (REOC).

- **State** – The State Level of SEMS prioritizes tasks and coordinates state resources in response to the requests from the Regional Level and coordinates mutual aid among the mutual aid regions and between the Regional Level and State Level. The State Level also serves as the coordination and communication link between the state and the federal emergency response system. The State Level requests assistance from other state governments through the Emergency Management Assistance Compact (EMAC) and similar interstate compacts/agreements and coordinates with the Federal Emergency Management Agency (FEMA) when federal assistance is requested. The State Level operates out of the State Operations Center (SOC).

7.1.2.SEMS FUNCTIONS

SEMS requires every emergency response involving multiple jurisdictions or multiple agencies include the five functions identified below in ***Exhibit 7-2 – SEMS Functions***. These functions must be applied at each level of the SEMS organization.

Exhibit 7-2 – SEMS Functions



- **Command/Management:** Command is responsible for the directing, ordering, and/or controlling of resources at the field response level. Management is responsible for overall

emergency policy and coordination at the SEMS EOC levels. Command and Management are further discussed below:

- **Command:** A key concept in all emergency planning is to establish command and tactical control at the lowest level that can perform that role effectively in the organization. In the Incident Command System (ICS), the Incident Commander (IC), with appropriate policy direction and authority from the responding agency, sets the objectives to be accomplished and approves the strategy and tactics to be used to meet those objectives. The IC must respond to higher authority. Depending upon the incident's size and scope, the higher authority could be the next ranking level in the organization up to the agency or department executive. This relationship provides an operational link with policy executives who customarily reside in the Department Operations Center (DOC) or EOC, when activated.

- **Management:** The EOC serves as a central location from which multiple agencies or organizations coordinate information collection and evaluation, priority setting, and resource management. Within the EOC, the Management function:

  - Facilitates multiagency coordination and executive decision-making in support of the incident response.
  - Implements policies established by the governing bodies.
  - Facilitates the activities of the Multiagency (MAC) Group.

- **Operations:** Responsible for coordinating and supporting all jurisdictional operations in support of the response to the emergency through implementation of the organizational level's Action Plans (AP). At the Field Level, the Operations Section is responsible for the coordinated tactical response directly applicable to, or in support of the objectives in accordance with the Incident Action Plan (IAP). In the EOC, the Operations Section Coordinator manages functional coordinators who share information and decisions about discipline-specific operations.

- **Logistics:** Responsible for providing facilities, services, personnel, equipment and materials in support of the emergency. Unified ordering takes place through the Logistics Section Supply Unit to ensure controls and accountability over resource requests. As needed, Unit Leaders are appointed to address the needs for communications, food, medical, supplies, facilities, and ground support.

- **Planning/Intelligence:** Responsible for the collection, evaluation, and dissemination of operational information related to the incident for the preparation and documentation of the IAP at the Field Level or the AP at an EOC. Planning/Intelligence also maintains information on the current and forecasted situation and on the status of resources assigned to the emergency or the EOC. As needed, Unit Leaders are appointed to collect and analyze data, prepare situation reports, develop action plans, set Geographic Information Systems (GIS) priorities, compile and maintain documentation, conduct advance planning, manage technical specialists, and coordinate demobilization.

- **Finance/Administration:** Responsible for all financial and cost analysis aspects of the emergency and for any administrative aspects not handled by the other functions. As needed, Unit Leaders are appointed to record time for incident or EOC personnel and hired equipment, coordinate procurement activities, process claims, and track costs.

The field and EOC functions are further illustrated in ***Exhibit 7-3 – Comparison of Field and EOC SEMS Functions***. More on the *SEMS Regulations and SEMS Guidelines* can be found on the Cal OES Website.

Exhibit 7-3 – Comparison of Field and EOC SEMS Functions

PRIMARY SEMS FUNCTION	FIELD RESPONSE LEVEL	EOCS AT OTHER SEMS LEVELS
Command/ Management	Command is responsible for the directing, ordering, and/or controlling of resources.	Management is responsible for facilitation of overall policy, coordinating, and supporting the incident.
Operations	The coordinated tactical response of all field operations in accordance with the Incident Action Plan.	The coordination of all jurisdictional operations in support of the response to the emergency in accordance with the EOC Action Plan.
Planning/ Intelligence	The collection, evaluation, documentation, and use of intelligence related to the incident.	Collecting, evaluating, and disseminating information and maintaining documentation relative to all jurisdiction activities.
Logistics	Providing facilities, services, personnel, equipment, and materials in support of the incident.	Providing facilities, services, personnel, equipment, and materials in support of all jurisdiction response activities as required or requested.
Finance/ Administration	Financial and cost analysis and administrative aspects not handled by the other functions.	Responsible for coordinating and supporting administrative and fiscal consideration surrounding an emergency incident.

7.1.3. NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) INTEGRATION

In addition to the Standardized Emergency Management System (SEMS), the State and its political subdivisions are responsible for compliance with the requirements of the National Incident Management System (NIMS) as defined in the Homeland Security Presidential Directives. The State promotes and encourages NIMS adoption by associations, utilities, non-governmental organizations (NGO), private sector emergency management, and incident

response organizations to enhance emergency management effectiveness. SEMS and NIMS are designed to be compatible and are based on similar organizational principles.

Cal OES is designated as the principal coordinator for NIMS implementation statewide. Annually, Cal OES administers the process to communicate, monitor, and implement NIMS requirements in cooperation with affected State agencies and departments, local governments, and other critical stakeholders. Cal OES utilizes the Unified Reporting Tool (URT) for measuring progress and facilitating reporting.[25]

7.1.4.EOC ACTIVATION CRITERIA, SEMS LEVELS, AND STAFFING

Emergency Operations Centers (EOC) shall be activated in accordance to the Standardized Emergency Management System and organized according to the five functions of the system, which are Management, Operations, Planning/Intelligence, Logistics, and Finance/Administration.

The activation guidelines are illustrated in ***Exhibit 7-4 – SEMS EOC Activation Requirements***.

Exhibit 7-4 - SEMS EOC Activation Requirements

Shaded areas = not applicable to SEMS levels Situations identified in SEMS Regulations:	**SEMS LEVELS** Field Response	Local Government	Operational Area	Region	State
Emergency involving two or more emergency response agencies §2407(a)(1)	Use ICS				
Local emergency proclaimed* §2407(a)(2)	Use ICS	Use SEMS			
Local government EOC activated §2407(a)(1)	Use ICS	Use SEMS			
Local government activates EOC and requests Operational Area EOC activation §2407(a)(1)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Two or more cities within an Operational Area proclaim a local emergency §2409(f)(2)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
County and one or more cities proclaim a local emergency §2409(f)(3)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
City, city and county, or county requests governor's State of Emergency proclamation §2409(f)(4)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Governor proclaims a State of Emergency for county, or two or more cities §2409(f)(5)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Operational Area requests resources from outside its boundaries** §2409(f)(6)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Operational area receives resource requests from outside its boundaries** §2409(f)(7)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
An Operational Area EOC is activated §2411(a)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
A Regional EOC is activated §2413(a)(1)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Governor proclaims a State of Emergency §2413(a)(2)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC
Governor proclaims an earthquake or volcanic prediction §2413(a)(3)	Use ICS	Use SEMS	Activate OA EOC	Activate REOC	Activate SOC

This matrix highlights the flow of SEMS activation requirements. Activation of an Operational Area EOC triggers activation of the Regional EOC, which, in turn, triggers activation of the State level EOC.

* The EOC is usually activated, but in some circumstances, such as agricultural emergencies or drought, a local emergency may be proclaimed without the need for EOC activation.

** Does not apply to requests for resources used in normal day-to-day operations which are obtained through existing mutual aid agreements providing for the exchange or furnishing of certain types of facilities and services as provided for under the California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA).

§ Indicates sections in the California Code of Regulations (CCR), Title 19, Division 2, Chapter 1 (SEMS).

The EOC staffing level should be established commensurate with the organizational need, as defined below:

- **Level Three EOC Activation:** Level Three is a minimum activation. This level may be used for situations which initially only require a few people, e.g., a short term earthquake prediction at level one or two; alerts of storms, or tsunamis; or monitoring of a low-risk planned event. At a minimum, Level Three staffing consists of the EOC Director, Section Coordinators, and a situation assessment activity in the Planning and Intelligence Section. Other members of the organization could also be part of this level of activation e.g., the Communications Unit from the Logistics Section, or an Information Officer.

- **Level Two EOC Activation:** Level Two activation is normally achieved as an increase from Level Three or a decrease from Level One. This activation level is used for emergencies or planned events that would require more than a minimum staff but would not call for a full activation of all organization elements, or less than full staffing. The EOC Director, in conjunction with the General Staff, will determine the required level of continued activation under Level Two, and demobilize functions or add additional staff to functions as necessary based upon event considerations. Representatives to the EOC from other agencies or jurisdictions may be required under Level Two to support functional area activations.

- **Level One EOC Activation:** Level One activation involves a complete and full activation of all organizational elements at full staffing and all Emergency Support Functions. Level One would normally be the initial activation during any major emergency requiring extreme State level help.

7.1.5. STATE AND REGIONAL EMERGENCY OPERATIONS CENTERS (SOC, REOC)

The State of California maintains and operates the State Operations Center (SOC) and three Regional Emergency Operations Centers (REOC). The SOC is responsible for coordinating resource requests and resolving priority issues that arise at the region level, between the three Cal OES Administrative Regions. The SOC is also responsible for coordinating with FEMA and other federal agencies involved in the implementation of the National Response Framework in California.

- **State Operations Center:** SOC operations are under the management of Cal OES. SOC responsibilities include:

  1. Acts as overall state coordinator in the event of simultaneous multi-regional incidents.

  2. Facilitates the establishment of inter-regional policy direction.

  3. Monitors and facilitates inter-regional communications and coordination issues.

  4. Compiles, authenticates, and makes available summary disaster status information obtained from all sources, in the form of Situation Reports, to the Governor's Office, the legislature, State agency headquarters, media, and others as appropriate.

5. Provides regional support and coordination in the absence of a REOC.

6. Maintains status of mission numbers and purchasing authority until these functions are assumed by the REOC in the affected area.

7. Provides necessary coordination with and between established statewide mutual aid systems at the state headquarters level.

8. Manages the state government emergency public information program.

9. Provides and maintains state government headquarters linkage and inter-agency coordination with the Federal Response System. This includes requesting appropriate assignments of federal Emergency Support Functions (ESF) at both the SOC and REOC.

10. Supports the recovery process and assists State agencies and REOCs in developing and coordinating recovery action plans.

- **Regional Emergency Operations Centers:** The Regional Level manages and coordinates information and resources among Operational Areas within the mutual aid region and also between the Operational Areas and the State Level. The Regional Level also coordinates overall State agency support for emergency response activities within the region. The operational role of the REOC is to:

  1. Act as the state's primary point of contact for operational areas within the region.

  2. Coordinate the collection, verification, and evaluation of situation status.

  3. Coordinate mutual aid requests between operational areas within the region. (This includes the coordination of all mutual aid requests other than that provided through established discipline-specific systems such as the Law Enforcement and Fire and Rescue Mutual Aid Systems.)

  4. Maintain liaison and coordination with Cal OES Headquarters and with state and federal agencies within the region.

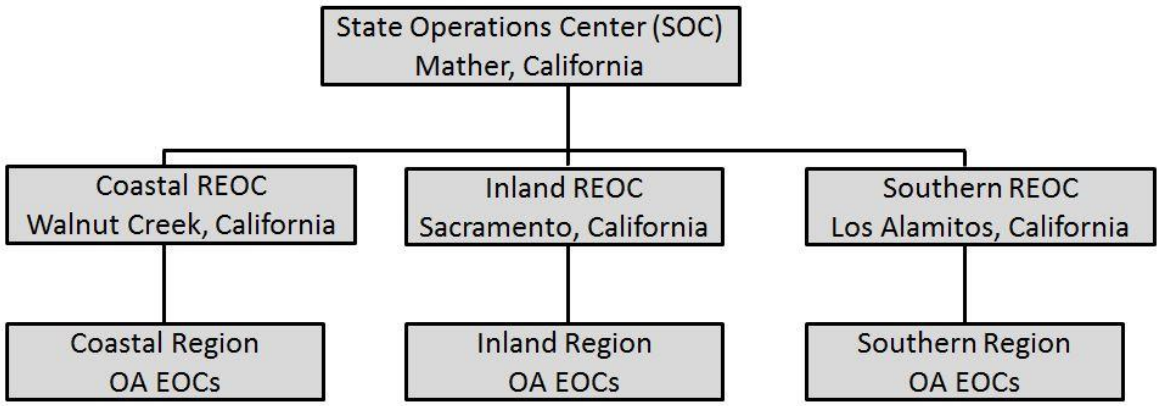
  5. Ensure appropriate application of SEMS within the affected region.

  6. Support the recovery efforts of the operational areas in developing and coordinating recovery action plans.

  7. Receive and disseminate emergency alerts and warnings.

Exhibit 7-5, EOC Relationships illustrates how communication and coordination occurs between the SOC, REOCs, and Operational Area EOCs.

Exhibit 7-5 – EOC Relationships



7.1.6.SOC – REOC ORGANIZATION

When an emergency or disaster occurs, or has the potential to occur, the Cal OES will activate the SOC and affected REOCs as appropriate to support the Operational Areas. The SOC and REOCs organize according to the SEMS functions of Management, Operations, Planning/Intelligence, Logistics, and Finance/Administration and will activate those functions necessary for the emergency response. A sixth function, Intelligence/Investigations, may be established if required to meet emergency management needs.

SEMS EOC functions are shown below:

- **Management Section:** The EOC at all levels should consider the following activities and responsibilities as part of its Management function:

  - Management of the EOC;
  - Facilitation of Multiagency Coordination System (MACS) and MAC Groups;
  - Coordination of public information and management Joint Information Center (JIC);
  - Provision of public safety, and risk communications and policy; and,
  - Provision of access and functional needs planning in each EOC section.

- **Operations Section:** The EOC at all levels should consider the following activities, disciplines and responsibilities as part of its Operations Section:

  - Transportation;
  - Construction and Engineering;
  - Fire and Rescue;
  - Care and Shelter;
  - Resources;
  - Public Health and Medical;

- Hazardous Materials;
- Food and Agricultural;
- Utilities;
- Law Enforcement;
- Recovery;
- Volunteer and Donations Management; and,
- Others as needed.

- **Planning/Intelligence Section:** The EOC at all levels should consider the following activities and responsibilities as part of its Planning function:

  - Situation Status;
  - Resource Status (assigned, available, or out of service);
  - Situation Analysis;
  - Information Display;
  - Documentation;
  - Advance Planning;
  - Technical Services;
  - Action Planning; and,
  - Demobilization.

- **Logistics Section:** The EOC at all levels should consider the following activities and responsibilities as part of its Logistics function:

  - Field Incident Support;
  - Communications Support;
  - Medical Unit;
  - Food Unit;
  - Ground Support Unit;
  - Supply Unit;
  - Facilities Unit;
  - Sanitation Services; and,
  - Information Systems Support.

- **Finance/Administration:** The EOC at all levels should consider the following activities and responsibilities as part of its Finance function:

  - Fiscal Management;
  - Timekeeping;
  - Purchasing;
  - Compensation and Claims;
  - Cost Recovery; and,
  - Travel Request, Forms, and Claims.

7.1.7.ALTERNATE SOC – REOC FACILITIES

In the event the State Operations Center or a Regional Emergency Operations Center is unusable due to emergency or disaster impacts, alternate facilities are designated to assume the impacted facility's roles and responsibilities. Other REOCs not impacted by the emergency may be called upon to support the impacted REOC or SOC. The Cal OES Regional Administrator of an unaffected REOC is authorized to manage emergency operations for the impacted facility until it is operationally ready to resume essential functions. When there is a temporary transfer of operations to an alternate REOC, notifications will be made to FEMA, State agencies, and operational areas to ensure continuity in communications and operations.

7.1.8.ALTERNATE GOVERNMENT FACILITIES

The State seat of government is in the City of Sacramento. Each branch of government maintains continuity of government plans that designate an alternate seat of government to serve as government offices for performing essential functions should the primary facilities be rendered inoperable.

7.2. CALIFORNIA'S EMERGENCY MANAGEMENT COMMUNITY

California promotes collaborative community-based planning and preparedness in which stakeholders from all sectors of society and emergency management disciplines work together to ensure an effective response to an emergency. Public agency stakeholders include the Governor, State agencies, Operational Areas, local government, special districts, tribal governments, other states, federal government, and international governments. Private-sector stakeholders include California's residents, businesses, non-governmental, and volunteer organizations.

7.3. THE ROLE OF GOVERNMENT

It is the responsibility of the government and the emergency management community to plan and prepare for emergency response with the whole community in mind.

7.3.1.GOVERNOR

During an emergency or disaster, the Governor coordinates statewide emergency operations through Cal OES and its mutual aid regions. The ESA states in part: "During a state of emergency the Governor shall, to the extent he deems necessary, have complete authority over all agencies of the state government and the right to exercise within the area designated all police power vested in the state."

7.3.2. CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (CAL OES)

The California Governor's Office of Emergency Services (Cal OES) is delegated authority by the Governor to implement the ESA and perform executive functions assigned by the Governor to support and enhance all phases of emergency management. This includes the promulgation of guidelines and assignments to state government and its political subdivisions to support the development of California's emergency management system.

- **State-Level Emergency Coordination:** During a state of war emergency, a state of emergency, or a local emergency, the Cal OES Director coordinates the emergency activities of all State agencies in connection with such emergency and has the authority to use any state government resource to fulfill mutual aid requests or to support emergency operations. Cal OES operates the California State Warning Center (CSWC) 24 hours per day to receive and disseminate emergency alerts and warnings. When needed, the State Operations Center (SOC) and Regional Emergency Operations Centers (REOC) are activated to coordinate emergency management information and resources. Cal OES also coordinates the delivery of federal grant programs under Presidential declarations of emergency and major disaster.

- **State-Federal Coordination:** When federal assistance is required, Cal OES coordinates requests for assistance and participates with the federal government to establish and operate Joint Field Offices (JFO). JFO operations are conducted in accordance with the *California Catastrophic Incident Base Plan: Concept of Operations* dated September 23, 2008.

7.3.3. STATE AGENCIES

Emergency management responsibilities of State agencies are described in the Emergency Services Act. State agencies are mandated to carry out assigned activities related to mitigating the effects of an emergency and to cooperate fully with each other, Cal OES, and other political subdivisions in providing assistance. Responsibilities may include deploying field-level emergency response personnel, activating emergency operations centers, and issuing orders to protect the public.

- **Administrative Orders (AO):** Administrative orders, prepared under the authority of the Governor's Executive Order W-9-91, expand upon and consolidate emergency assignments of State agencies. Additional State agency assignments may be indicated within Standby Orders from the Governor.

- **Agency Plans:** Each agency maintains its own emergency plans and procedures to accomplish assigned emergency management tasks. Agency plans may delegate authority and assign responsibilities to divisions, bureaus, field offices, or other components of the agency. Agency plans must be consistent with the provisions of the administrative orders

and the statutory authorities of the individual agency. Each agency should ensure its emergency plan is consistent with the State of California Emergency Plan.

- **Disaster Service Workers:** Government Code Section 3100 states all public employees can be called upon as disaster service workers to support emergency response, recovery, and mitigation activities. State agencies are responsible for ensuring all personnel assigned specific responsibilities in support of this plan are adequately trained and prepared to assume those responsibilities.

7.3.4.JUDICIAL BRANCH OF STATE GOVERNMENT

The judicial branch of state government includes the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts, as well as Superior Courts in each of the 58 counties. During an emergency or disaster, the judicial branch is responsible for maintaining and preserving access to justice. Each element of the judicial branch maintains emergency and continuity of operations plans that allow the court system to:

- Continue the court's essential functions and operations during an emergency.
- Reduce or mitigate disruptions in court operations.
- Provide appropriate legal response to time-sensitive legal matters.
- Identify alternate facilities and designate principals and support staff to relocate.
- Protect essential facilities, equipment, records, and other assets.
- Safeguard equipment, records, databases, and other assets should the facility become inoperable.
- Recover and resume normal operations.

Each court also maintains local security and emergency plans developed by the court and sheriff's department or California Highway Patrol.

7.3.5.OPERATIONAL AREA (OA)

An Operational Area (OA) is an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area.[26] The governing bodies of each county and of the political subdivisions in the county may organize and structure their operational area.[27] The operational area serves as a coordinating link between the local government level and the region level of SEMS. OA responsibilities involve coordinating with the jurisdictions and organizations to deploy field-level emergency response personnel, activate emergency operations centers, and issue orders to protect the public.

7.3.6.LOCAL GOVERNMENT

Cities and counties have ordinances that establish an emergency organization and local disaster council. The ordinances provide for the development of an emergency plan establishing responsibilities for emergency management operations and specifying the officials authorized to proclaim a local emergency. All local governments with a certified disaster council are required

to develop Emergency Operation Plans (EOP) for their jurisdiction that meet state and federal requirements and are in accordance with *Cal OES Local Planning Guidance*. Attachment D is an example of an Emergency Operations Plan Crosswalk local governments can use to determine if the plan contains essential SEMS and NIMS components.

When there is an immediate threat or actual emergency, local governments implement emergency plans and take actions to mitigate or reduce the emergency threat. Actions may include deploying field-level emergency response personnel, activating emergency operations centers, and issuing orders to protect the public. All accessible and applicable local, state, and federal resources will be committed to protect lives, property, and the environment.

7.3.7.SPECIAL DISTRICTS

Special districts are formed under various laws that provide the necessary authority to operate. Special districts often have unique resources, capabilities, and vulnerabilities. Special districts should be included in the activities at the OA in order to ensure the needs of residents are best met during an emergency. Responsibilities may include deploying field-level emergency response personnel, activating emergency operations centers, and issuing orders to protect the public.

7.3.8.TRIBAL GOVERNMENTS

There are 109 federally-recognized Native American tribes in California. The United States government recognizes tribes as domestic, independent nations with the right to self-governance, tribal sovereignty, and self-determination. Tribal governments are responsible for the protection and preservation of life, property, and the environment on tribal lands. Responsibilities may include deploying field-level emergency response personnel, activating emergency operations centers, and issuing orders to protect the public.

- **Federal / State Authorities:** The Stafford Act, 42 U.S.C., Section 5122(B), defines an Indian tribe or authorized tribal organization as local governments. Under 28 U.S.C, Section 1360, California has criminal law enforcement jurisdiction over offenses committed by or against tribes, and civil law enforcement jurisdiction over offenses to which the tribes are a party. Local ordinances are not applicable to tribes or tribal land.

- **Emergency Management:** Tribal governments maintain various levels of emergency preparedness, coordination, communication, and collaboration with federal, state, and local governments. When there is threat of an emergency or actual emergency, tribal authorities must take the appropriate actions to cope with the situation and activate their tribal emergency preparedness procedures and plans.

- **Agreements:** Developing Memorandums of Understanding (MOU) or Memorandums of Agreement (MOA) between state, local, and tribal governments could maximize capabilities at all levels, expedite mobilization during an emergency, and promote sharing of equipment, skilled personnel, and other needed resources in an emergency.

- **Disaster Assistance:** The State and its political subdivisions will make every effort to support the tribal communities in response and recovery efforts. As conditions require and upon request from the tribe, the available and appropriate federal, state, and local government resources will, in accordance with prior arrangements and as authorized by law, be committed to tribal lands to protect lives, property, and the environment.

7.3.9.FEDERAL GOVERNMENT

The federal government strongly supports emergency management throughout the nation and in California by providing tools, resources, and guidance to support California's emergency management system. When an emergency occurs that exceeds, or is anticipated to exceed, resources located within the state, or when federal departments or agencies acting under their own authorities are partners in the unified command for an emergency, the federal government will implement the National Response Framework (NRF) to access federal department and agency capabilities, organize the federal response, and ensure coordination with all response partners. FEMA Region IX and Cal OES have outlined the mechanism by which they will integrate efforts in the *California Catastrophic Incident Base Plan: Concept of Operations*.

The Concept of Operations (CONOP) describes the integration of Federal resources into the state-led response to a catastrophic incident to achieve unity of effort and in concert with State of California Emergency Plan and the Standardized Emergency Management System (SEMS).

The audience for the CONOPs includes state, federal, local, regional, and tribal officials, as well as representatives of non-governmental and private-sector organizations with responsibility for response to, and recovery from, potentially catastrophic incidents in California. Such organizations may be expected to participate in the joint State/Federal organization.

The current catastrophic plans developed by Cal OES and FEMA are:

- California Catastrophic Incident Base Plan: Concept of Operations
- Bay Area Earthquake Plan
- Southern California Catastrophic Earthquake Response Plan
- California Cascadia Subduction Zone Earthquake and Tsunami Response Plan

More information on catastrophic plans can be found on the Cal OES website (www.caloes.ca.gov).

7.3.10.OTHER STATE GOVERNMENTS

The United States has a long history of cooperation and assistance amongst state governments during emergencies. California has entered into reciprocal aid agreements with other states to provide for mutual assistance when such assistance is requested by the governor of that state or a designee. In 1951, California became a signatory to the Interstate Civil Defense and Disaster Compact. In 2005, the State signed on as a member of the Emergency Management Assistance

Compact (EMAC). In addition, California is party to regional initiatives with neighboring states to support effective emergency management.

7.3.11.INTERNATIONAL GOVERNMENTS

California coordinates international programs, initiatives, projects, and partnerships with other countries and international organizations, such as the Aga Khan Development Network (AKDN), Australia, Chile, Israel, and Mexico. These partnerships help to build mutual understanding and collaboration, and enhance a shared commitment to emergency management and disaster mitigation training, awareness, and education. The State continues to utilize resources from other countries, provide emergency management assistance, and deploy resources to areas devastated by emergencies throughout the world.

In addition, California participates in a variety of cross-border initiatives with Mexico which enables policy makers to discuss and resolve some of the most important border issues affecting the United States (U.S.) and Mexico. In 2014, California and Mexico unveiled the California-Mexico Memorandum of Understanding (MOU) to enhance cooperation on climate change and the environment, to reduce greenhouse gas emissions, protect public health and natural resources, and invest in a clean economy. The MOU recognizes emergencies can cross international borders and promotes cooperation to develop joint capabilities. In collaboration with Mexican and U.S. federal partners, Cal OES leads the Wildfire Workgroup to further the goals of preparing and coordinating efforts for wildfire emergencies along the California-Mexico border region.

7.4. ROLE OF THE PRIVATE SECTOR

7.4.1.CALIFORNIA RESIDENTS

The residents of California are the primary beneficiaries of the state's emergency management system. At the same time, residents play an important role in emergency management by ensuring they and their families are prepared for disasters.

Before an emergency, residents can assist the emergency management effort by taking first aid training, maintaining emergency supplies and being prepared to evacuate or shelter in-place for several days. Many residents join disaster volunteer programs such as Community Emergency Response Teams (CERT) and remain ready to volunteer or support emergency response and recovery efforts. During an emergency, residents should monitor emergency communications and carefully follow directions from authorities. By being prepared, residents can better serve their families and communities, and reduce demands on first responders.

Many local government agencies, particularly county offices of emergency services, have individual, family, and community preparedness initiatives. At the State level, the California Governor's Office of Emergency Services promotes individual and community preparedness. CaliforniaVolunteers is another State office that provides information and tools to support individual and community emergency planning, and matches volunteers to opportunities.

7.4.2.BUSINESSES

Much of the state's critical infrastructure is owned or maintained by businesses and must be protected during a response to ensure a quick and complete recovery from an emergency. These same businesses provide valuable resources before, during, and after an emergency, and play a critical role in meeting the needs of those impacted by an emergency.

- **Target Hazards:** Some key industries are potential targets for terrorist attacks and must institute measures to protect their infrastructure and the surrounding community. The Chemical Facility Anti-Terrorism Standards (CFATS) were passed to ensure these businesses have security measures in place to prevent releases, thefts/diversions, or sabotage/contamination due to terrorist activity. These businesses must coordinate with federal, state, and local governments to ensure emergency plans are integrated with government plans.

    - Businesses, large and small, handle chemicals that pose hazards to the community and environment due to potential offsite releases. Businesses have emergency plans to limit the impacts from these unintentional releases.

- **Hazardous Materials Area Plans:** Some industries are required by law or regulation to have emergency operations procedures to address a variety of hazards. The Cal OES Hazardous Materials Program requires businesses that handle hazardous materials that meet certain quantity or risk thresholds to submit Business Program Plans and Risk Management Plans to Certified Unified Program Agencies (CUPA) or Administering Agencies (AA). The AA can then develop Hazardous Materials Area Plans to respond to a release of hazardous materials within their jurisdiction.

- **Business Emergency Plans:** This plan recommends all businesses develop comprehensive emergency plans that include employee injury and illness prevention programs, business resumption, and continuity of operations elements. A comprehensive business emergency plan can assist the business and the community at-large by providing:

    - Information to the employees to protect themselves and their families from the effects of likely emergencies;
    - A business emergency organization with identified positions having clear and specific emergency roles, responsibilities, delegated authorities and identified successors;
    - An identification of actions necessary to protect company property and records during emergencies;
    - A list of critical products and services;
    - Production shut-down procedures;
    - A company command post;
    - Alternate work sites;
    - Methods and channels of communication;
    - Contacts with local emergency management officials; and,
    - A method to provide and accept goods and services from other companies.

- **Business Operations Centers:** This plan also promotes the use of business operations centers to enhance public and private coordination. State and local governments can effectively coordinate with businesses by establishing a business operations center linked to their existing emergency operations center.

7.4.3.VOLUNTARY ORGANIZATIONS

California recognizes the value and importance of organizations that perform voluntary services in their community. These organizations have resources which can augment emergency response and recovery efforts. Examples of voluntary organizations are:

- **American Red Cross (Red Cross):** When a disaster threatens or strikes, the ARC provides shelter, food, and health and mental health services to address basic human needs to enable survivors to resume normal daily activities. In California, the Red Cross has a Memorandum of Understanding (MOU) with Cal OES which designates the Red Cross as the state co-lead for mass care and shelter (ESF 6) with California Department of Social Services (CDSS), and an MOU with CDSS to plan, prepare, and train for and respond to emergencies that require mass care and shelter.

- **Salvation Army:** The Salvation Army's first aim is to meet the basic needs of those who have been affected, both survivors and first responders. The Salvation Army's primary goals are to offer material comfort, physical comfort, and spiritual and emotional comfort (www.salvationarmyusa.org).

- **Voluntary Organizations Active in Disaster (VOAD):** This coalition of nonprofit organizations supports the emergency management efforts of local, state, and federal agencies and governments by coordinating the planning efforts of a variety of voluntary organizations (www.calvoad.org).

- **Stakeholder Workgroup**: Consider creating an AFN workgroup. The workgroup, which is organized and facilitated by the AFN lead within the EOC, consists of representatives from the local independent living center, regional center, disability advocacy groups, and other resource providers (e.g. the American Red Cross), and is designed to identify the immediate unmet needs of disaster survivors with disabilities and access and functional needs, and to deliver the following resources:

    - Power chairs;
    - Manual wheelchairs;
    - Walkers, canes, rollators; and,
    - Other assistive technologies.

7.4.4.PUBLIC-PRIVATE PARTNERSHIPS

The private sector provides valuable assistance and resources to support emergency response and recovery activities. To support coordination and response between government and the private sector, the Cal OES Director, under the ESA[28], has established the Public-Private Partnership to assist in securing agreements between State agencies and nonprofit and private sector resources that can be called upon during an emergency. The goal of the Public-Private Partnership is to advise on:

- Appropriate agreements to provide for quick access to emergency supplies and essential services in order to minimize the need to stockpile such supplies during normal times.
- Logistic measures required to quickly deliver needed supplies and services to affected areas.
- Methods to utilize nonprofit and private sector capabilities to increase the surge capacity of state and local agencies responding to emergencies.
- Methods to promote the integration of the nonprofit and private sectors into the emergency services system so people can be better informed and prepared for emergencies.
- Systems that aid business and economic recovery after an emergency.

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8. Mitigation Programs

Hazard mitigation is defined as any sustained action taken to reduce or eliminate long-term risk to people and property from natural or human-caused hazards and their effects. This definition distinguishes actions that have a long-term impact from those more closely associated with immediate preparedness, response, and recovery activities. States, territories, federally-recognized tribes, and local communities are encouraged to take advantage of the funding FEMA's Hazard Mitigation Assistance (HMA) programs provide in both the pre- and post-disaster timelines.

Mitigation capabilities include, but are not limited to, community-wide risk reduction projects, efforts to improve the resilience of critical infrastructure and key resource lifelines, risk reduction for specific vulnerabilities from natural and human-caused hazards, climate change, and initiatives to reduce future risks after a disaster has occurred. This also includes assessing the adequacy of surge and response capability in light of more frequent and severe weather and climate-related disasters and emergencies. Without actions to incorporate climate considerations into emergency management efforts, climate change may increase risk to public safety, property, and emergency responders.

More information on hazard mitigation programs can be accessed at the Hazard Mitigation Web Page on the Cal OES website (www.caloes.ca.gov).

8.1. STATE OF CALIFORNIA ENHANCED MULTI-HAZARD MITIGATION PLAN (SHMP)

Mitigation Plans form the foundation for a state or community's long-term strategy to reduce disaster losses and break the cycle of damage, reconstruction, and repetitive damage. The State of California's Enhanced Multi-Hazard Mitigation Plan (SHMP) is a collaborative effort to identify, reduce, or eliminate the long-term risk to human life and property from natural, technological/accidental, adversarial, or human-caused hazards in California. The SHMP guides the state as a whole in developing the capabilities necessary to reduce losses by lessening the impact of disasters and to enhance state and community disaster resilience. As the state's primary hazard mitigation guidance document, it provides an updated and comprehensive description of California's historical and current hazard analysis, mitigation strategies, goals, and objectives, as well as assessment of climate projections, impacts, and risk-reduction efforts.

California is required to review and revise the SHMP and resubmit it for FEMA approval every five years to ensure continued eligibility of Stafford Act funding. This includes eligibility for FEMA's Hazard Mitigation Assistance (HMA) Programs including: Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation (PDM), Flood Mitigation Assistance (FMA), Fire Management Assistance Grant Program (FMAG), and Public Assistance (PA) grants. In addition, the state remains eligible for the reduced-cost share for grants awarded under the FMA grant programs, and California's "Enhanced Plan" designation also enables the state to receive increased HMGP funds from 7.5 percent to 20 percent after a federally declared event, providing a greater allotment to implement the State's mitigation program.

The goals of the 2013 SHMP are to:

1. Significantly reduce life loss and injuries.
2. Minimize damage to structures and property, and interruption of essential services and activities.
3. Protect the environment.
4. Promote hazard mitigation as an integrated public policy and as a standard business practice.

Local Multi-Hazard Mitigation Plans (LHMP) are essential in identifying and developing strategies to mitigate risks and vulnerabilities associated with disasters. Cal OES provides technical assistance to local governments in the development of LHMPs required under the Disaster Mitigation Act of 2000 (DMA 2000), and assists with integrating hazard identification, risk assessments, risk management, and loss prevention into a comprehensive approach to hazard mitigation. All sub-recipients for HMGP must have a FEMA-approved local or Tribal Mitigation Plan at the time of obligation of grant funds for mitigation projects. All sub-recipients for PDM and FMA must have a FEMA-approved local or Tribal Mitigation Plan by the application deadline and at the time of obligation of grant funds for mitigation projects.

9. Emergency Preparedness

Preparedness involves activities undertaken in advance of an emergency to develop and enhance operational capacity to respond to and recover from an emergency. As part of a comprehensive preparedness program, the emergency management community should develop plans and procedures, maintain prevention programs, manage resources, establish mutual aid agreements, train personnel, and educate the public.

9.1. PREPAREDNESS PLANNING

The State and its political subdivisions assigned emergency responsibilities in this plan will prepare appropriate supporting plans and related standard operating procedures that describe how emergency operations will be carried out.

- **SEMS and NIMS Elements:** Plans and procedures should address all applicable SEMS and NIMS requirements. At a minimum, plans should contain a list of stakeholders, preparedness actions, how mutual aid will be coordinated, how people with special needs will be addressed, an outline of response actions, and the process for incorporating corrective actions.

- **Local Planning Guidance:** All local governments with a certified disaster council are required to develop Emergency Operation Plans (EOP) for their jurisdictions that meet state and federal requirements. Among other emergency planning considerations, local EOPs should include the following elements:

    - **Evacuation and Transportation** – Evacuation plans must integrate accessible transportation providers within the planning process and movement of people with mobility impairments and those with transportation disadvantages. Transportation planning considerations should include staging, embarkation points, transportation centers, evacuee locations, and care and shelter.

    - **Sheltering** – Care and shelter plans must integrate the access and functional needs of individuals to allow for sheltering in general population shelters. A shelter is a disaster-relief location that provides a roof overhead, food, water, sanitation, and support to residents in maintaining their basic living needs until they can return home. Shelters will not duplicate residents' usual standards of living whether or not they have disabilities or access and functional needs. Survival and basic non-medical health maintenance is the goal of disaster sheltering.

      When shelter facilities are activated, the State will work with local officials to ensure they accommodate the provisions of the Americans with Disabilities Act (ADA). Shelter planners and emergency managers should identify shelters that comply with ADA requirements and those that, with modifications, will comply. This includes accessible design standards and state accessibility codes. Shelters can be identified as primary or secondary shelters, depending on accessibility.

- Another perspective for EOPs planners to consider is the needs of individuals who are not in contact with traditional emergency service providers. These people may feel they cannot comfortably or safely access and use the standard resources offered in preparedness, response, and recovery. These include, but are not limited to, individuals who are:

    - Out of hearing range of community alert sirens;
    - Without radio or television to know they need to take action;
    - Without access to telephones;
    - Visiting or temporarily residing in an impacted region;
    - Not familiar with available emergency response and recovery resources;
    - Medically dependent adults; and,
    - Geographically isolated.

- **Hazard-Specific Planning:** Local, state and federal regulations frequently require hazards-specific plans. For example, nuclear power plant emergency plans are required under federal regulation, Title 44 Chapter I Subchapter F Part 350. Hazardous materials area plans are required under the California Health and Safety Code Section 25503. Dam emergency plans and procedures for the evacuation and control of populated areas below dams may be adopted by local governments in accordance with California Government Code Section 8589.5.

    - **Nuclear Power Plant Emergency Plans:** Local and state jurisdictions within the federally-defined emergency planning zones established around operating nuclear power plants are required to develop and exercise plans designed to protect the public in the event of an emergency.

    - **Hazardous Materials Area Plans:** Administering agencies are required to establish area plans for emergency response to a release or threatened release of a hazardous material within its jurisdiction.

    - **Dam Emergency Plans:** Dam owners are required to produce an inundation map sufficient to conduct emergency planning and produced according to CCR Title 19, Div. 2, Chap. 2, Subchapter 4 (unless waived from the mapping requirement). Local governments should inventory high and significant hazard dams within their areas of responsibility and develop evacuation plans for a dam failure, which as a minimum, should comply with the emergency procedures as described in Government Code Section 8589.5(b)(2). To assure effective communication and coordination with dam owners, jurisdictions should encourage dam owners to prepare an emergency action plan consistent with FEMA publication P-64 the Federal Guidelines for Emergency Action Planning for Dams, and provide for drills and exercise of such plans.

    - **Health Care Facilities:** Health care providers and suppliers participating in Medicare and Medicaid must meet industry best practice standards including development of an emergency plan, implementation of policies and procedures based on a risk

assessment, development of a communication plan, and development of training and testing programs.

- **Regional Planning:** Where multiple jurisdictions share similar and concurrent hazards, the establishment of interagency or inter-jurisdictional planning committees is recommended. Such planning committees can enhance regional planning by coordinating their response efforts and sharing information on resources and capabilities.

- **Public-Private Partnerships:** Emergency managers should establish public-private partnerships to gain a better perspective on available emergency resources to meet the public need.

- **Recovery Planning:** Local governments and other agencies are encouraged to develop recovery plans prior to the occurrence of a disaster. Such a plan should establish mechanisms for recovery decision-making and identify key participants in the recovery organization, including non-governmental and private sector entities. The plan should also identify processes and procedures for requesting state and federal recovery assistance and ensuring that recovery activities are carried out in accordance with the requirements of these programs.

In September 2011, FEMA released the National Disaster Recovery Framework (NDRF). The NDRF provides guidance that enables effective recovery support to disaster impacted states, tribes, and local jurisdictions. In 2016, Cal OES released the interim California Disaster Recovery Framework (CDRF).

9.2. PREPAREDNESS TRAINING

Training, tests, and exercises are essential to ensure public officials, emergency response personnel, and the public are operationally ready. As part of the emergency management training curriculum, it is recommended personnel with emergency responsibilities complete emergency management courses as described in the SEMS Approved Course of Instruction (ACI) and the NIMS integration criteria. Cal OES provides training for emergency managers and first responders through its *California Specialized Training Institute* (CSTI). Each agency is responsible for maintaining training and exercise records that demonstrate self-certification and compliance with SEMS and NIMS.

9.3. PREPAREDNESS EXERCISES

Exercises provide personnel with an opportunity to become thoroughly familiar with the procedures, facilities, and systems used in emergency situations. State agencies and political subdivisions should plan for and/or participate in an all-hazards exercise program that involves emergency management/response personnel from multiple disciplines and/or multiple jurisdictions. Exercises should:

- Be as realistic as possible.

- Stress the application of standardized emergency management.
- Be based on risk assessments (credible threats, vulnerabilities, and consequences).
- Include non-governmental organizations and the private sector, when appropriate.
- Incorporate the concepts and principles of SEMS and NIMS.
- Demonstrate continuity of operations issues.
- Incorporate issues related to individuals with disabilities and others with access and functional needs.

Exercises range from seminars/workshops to full-scale demonstrations.

- **Seminars/Workshops** are low-stress, informal discussions in a group setting with little or no simulation, used to provide information and introduce people to policies, plans, and procedures.

- **Drills/Tests** are conducted on a regular basis to maintain the readiness of operational procedures, personnel, and equipment. Examples include tests of outdoor warning systems and the Emergency Alert System.

- **Tabletop Exercises** provide a convenient and low-cost method designed to evaluate policy, plans, procedures, and resolve coordination and responsibilities. Such exercises are a good way to see if policies and procedures exist to handle certain issues.

- **Functional Exercises** are designed to test and evaluate the capability of an individual function such as communications, public evacuation, or medical.

- **Full-Scale Exercises** simulate an actual emergency. They typically involve complete emergency management staff and are designed to evaluate the operational capability of the emergency management system.

The federal government, through FEMA, promulgates the Homeland Security Exercise and Evaluation Program (HSEEP), which is a standardized methodology for exercise design, development, conduct, evaluation, and improvement to ensure homeland security and terrorist response capabilities are adequately tested and exercised. Any jurisdiction that receives certain homeland security grant funding may be required to develop an HSEEP-compliant training and exercising plan. Additional information can be found at the Homeland Security Exercise and Evaluation Program website.

9.4. PREVENTION AND PROTECTION PROGRAMS

The State supports risk prevention programs as a component of a broader emergency preparedness effort. Prevention programs are established by many agencies and departments to detect problems, share information and intelligence, and prepare strategies to avert the problems before they occur. Many agencies maintain assessment centers to evaluate risks and threats and to share information among local, state, and federal authorities.

The State Threat Assessment System (STAS) helps safeguard the communities of California. The STAS assists in the detection, prevention, investigation, and response to criminal and terrorist activity. The STAS also disseminates intelligence and facilitates communications between state, local, federal, tribal agencies, and private sector partners, to help take action on threats and public safety issues. The STAS is made up of the following six fusion centers across California:

- California State Threat Assessment Center (STAC) (Sacramento)
- Central California Intelligence Center (CCIC) (Sacramento)
- Joint Regional Intelligence Center (JRIC) (Los Angeles)
- Northern California Regional Intelligence Center (NCRIC) (San Francisco)
- Orange County Intelligence Assessment Center (OCIAC) (Orange County)
- San Diego Law Enforcement Coordination Center (SD-LECC) (San Diego)

The State Threat Assessment Center (STAC) is the State primary fusion center, as designated by the Governor of California, and is operated by the California Governor's Office of Emergency Services – Law Enforcement, Homeland Security Branch. The STAC reports to statewide leadership and the public safety community as California's information-sharing clearinghouse for strategic threat analysis and situational awareness, while preserving civil liberties, individual privacy, and constitutional rights.

The STAC's Critical Infrastructure Protection (CIP) Group assesses infrastructure criticality, performs security and resilience surveys, shares CIP-related information with public and private partners, and provides risk-informed analysis to Cal OES leadership and government partners. The STAC and CIP support the Cal OES Director in the role of Homeland Security Advisor through collaborative, multi-jurisdictional initiatives such as the National Critical Infrastructure Prioritization Program, Area Maritime Councils, and working groups.

9.5. COMMUNICATIONS AND INFORMATION MANAGEMENT

Preparedness strategies include plans and procedures for utilizing communications and information management systems. Each agency should incorporate the following principles into their communications and information management systems.

- **Common Terminology:** Apply common and consistent terminology as used in SEMS, including the establishment of plain language (clear text) communications standards.

- **Protocols:** Develop procedures and protocols for communications (to include voice, data, access to geospatial information, Internet/Web use and data encryption), where applicable, to utilize or share information during an incident/planned event.

- **Data Collection:** Institute multidisciplinary and/or multijurisdictional procedures and protocols for standardization of data collection and analysis to utilize or share information during an incident/planned event.

- **Common Operating Picture:** Utilize systems, tools, and processes to present consistent and accurate information (e.g., common operating picture) during an incident/planned event.

- **Geographic Information System (GIS):** Provide maps for emergency preparedness, response, recovery, and mitigation for natural, pandemic, and human-caused disasters.

9.6. PREPARING RESOURCES

This plan promotes a six-part resource management system that addresses interoperability, credentialing, resource typing, mutual aid use, deployment policies, and cost recovery. Each agency with responsibilities in this plan should ensure that their resource management systems address these following points:

- **Interoperability:** Ensure equipment, communications, and data systems acquired through state/territorial and local acquisition programs are interoperable.

- **Credentialing:** Initiate statewide system to credential emergency management/response personnel to ensure proper authorization and access to an incident including those involving mutual aid agreements and/or assistance agreements.

- **Resource Typing:** Inventory response assets to conform to NIMS National Resource Typing Definitions, if defined by FEMA.

- **Interagency Assistance:** Utilize response asset inventory for intrastate and interstate assistance requests such as Emergency Management Assistance Compact (EMAC), training, exercises, and incidents/planned events.

- **Deployment Policies:** Institute policies, plans, procedures, and protocols to prevent spontaneous deployment of resources/personnel and/or responding to a request that bypasses official resource coordination processes (i.e., resources requested through improper channels).

- **Cost Recovery:** Institute mechanisms to deploy, track, recover, demobilize, and provide reimbursement for resources utilized during response and recovery.

10. Response Concept of Operations

The response phase concept of operations summarizes seven key elements: (1) goals, priorities, and strategies; (2) direction, control and coordination; (3) alert and warning; (4) intelligence gathering and situation reporting; (5) public information; (6) mutual aid and assistance; and (7) the sequence of events during disasters.

10.1. RESPONSE GOALS, PRIORITIES, AND STRATEGIES

During the response phase, emergency managers set goals, prioritize actions, and outline operational strategies. This plan provides a broad overview of those goals, priorities, and strategies, and describes what should occur during each step, when, and at whose direction.

- **Operational Goals:** During the response phase, the agencies that are charged with responsibilities in this plan should focus on the following five goals.

  - Meet basic human needs.
  - Address needs of individuals with disabilities and others with access and functional needs.
  - Mitigate operational hazards.
  - Restore essential services.
  - Support community and economic recovery.

- **Operational Priorities:** Operational priorities govern resource allocation and the response strategies for the State of California and its political subdivisions during an emergency. Below are operational priorities addressed in this plan.

  1. Save Lives – The preservation and sustainment of life is the top priority of emergency managers and first responders and takes precedence over all other considerations.

  2. Protect Health and Safety – Measures should be taken to mitigate the emergency's impact on public health and safety.

  3. Protect Property – All feasible efforts must be made to protect public and private property and resources, including critical infrastructure, from damage during and after an emergency.

  4. Preserve the Environment – All possible efforts must be made to preserve California's environment and protect it from damage during an emergency.

- **Operational Strategies:** To meet the operational goals, emergency responders should consider the following strategies.

- Meet basic human needs – All possible efforts must be made to supply resources to meet basic human needs, including food, water, accessible shelter, medical treatment, and security during an emergency.

- Address needs of individuals with disabilities or access and functional needs – Individuals with disabilities and others with access and functional needs are disproportionally impacted during and after an emergency. The needs of individuals with disabilities or access and functional needs must be considered and addressed before, during, and after disasters.

- Mitigate hazards – As soon as practical, suppress, reduce, or eliminate hazards and/or risks to persons and property during the disaster response. Lessen the actual or potential effects or consequences of future emergencies.

- Restore essential services – Power, water, sanitation, accessible transportation, and other essential services must be restored as rapidly as possible to assist communities in returning to normal daily activities.

- Support Community and Economic Recovery – All members of the community must collaborate to ensure recovery operations are conducted efficiently, effectively, and equitably, promoting expeditious recovery of the affected areas.

10.2. DIRECTION, CONTROL, AND COORDINATION

Responsibility for emergency response is based on statutory authority. The emergency response is coordinated under SEMS, which provides a flexible, adaptable, and expandable response organization to address all-hazards of varying magnitude and complexity.

- **Command and Control:** During response to minor or moderate events, one jurisdiction may manage the emergency with existing resources. Personnel that are part of a field level emergency response will utilize the Incident Command System (ICS) to manage and direct on-scene operations. The Emergency Operations Center (EOC) for that jurisdiction may not be activated under this scenario.

- **Field-EOC Communications and Coordination:** An EOC is activated to support field level operations when an emergency requires additional resources, or when requested resources exceed what is available from within the jurisdiction. Field Incident Commanders and EOCs will establish communications when the EOC is activated. Local government EOCs will establish communications with the Operational Area EOC. Operational Area EOCs will communicate with the Regional Emergency Operations Centers (REOC) and the REOCs will communicate with the State Operations Center (SOC).

- **Multiagency Coordination**: Larger-scale emergencies involve one or more responsible jurisdictions and/or multiple agencies. Management personnel from the responsible

jurisdictions form a Unified Command and/or a Multiagency Coordination Group. Provisions are made for situation assessment, determination of resources requirements, establishment of a logistical system, and allocation of scarce resources. EOCs, dispatch centers, and other essential facilities located in, or adjacent to, the affected area are activated. The Cal OES Regional Emergency Operations Center (REOC) and State Operations Center (SOC) are activated to support the Operational Area needs.

- **Multiagency Coordination System (MACS)**: Multiagency coordination is a process that allows all levels of government and all disciplines to work together more efficiently and effectively. Multiagency coordination occurs across the jurisdictional lines, or across levels of government. The primary function of MACS is to coordinate activities above the field level and to prioritize the incident demands for scarce or competing resources. MACS consist of a combination of elements: personnel, procedures, protocols, business practices, and communications integrated into a common system.

- **Multiagency Coordination Groups (MAC Group)**: Agency Administrators/Executives, or their designees, who are authorized to represent or commit agency resources and funds are brought together to form MAC Groups. MAC Groups may be established at any level or in any discipline. Under SEMS, MAC Group activities are typically facilitated by EOCs. A MAC Group can:

  - Commit agency resources and funds.
  - Provide coordinated decision making.
  - Allocate resources among cooperating agencies.
  - Establish priorities among incidents.
  - Harmonize agency policies.
  - Provide strategic guidance to support incident management activities.

- **State Government Coordination and Cooperation:** Cal OES coordinates State-level emergency operations and support for local emergency response.

  - All essential emergency tasks will be assigned to a State agency or department.

  - Emergency tasks assigned to State agencies will generally be compatible with their regular responsibilities.

  - Each emergency task will be assigned primarily to one agency. However, support tasks will be assigned to as many support agencies as appropriate.

- **Disaster Direction and Control**: During disasters the local, OA, REOC and SOC EOCs activate to provide coordination and support.

- **Cal OES Incident Support Teams (IST):** Cal OES developed and implemented an Operational Readiness Program which includes Incident Support Teams (IST). This program is modeled directly after the FEMA Incident Management Assistance Team

(IMAT) concept and utilizes trained state emergency management personnel to fill critical ICS positions within the Management, Operations, Planning/Intel, Logistics, and Finance/Administration Sections. Cal OES supports three 18-person ISTs (Red IST, White IST and Blue IST), with the capacity and capability to rapidly respond to any incident or event requiring state emergency management assistance.

- **FEMA Incident Management Assistance Teams (IMAT):** IMATs provide field-level incident management during emergencies and disaster response. These typed teams can be used at all levels of government regardless of incident size or complexity, and are capable of incident management using the NIMS and ICS principles. IMATs include Command and General staff and consist of Operations, Logistics, Planning, and Finance/Administration sections. In a joint response, the state and the federal government will maintain separate finance and administration sections.

  Upon receipt of a federal emergency or major disaster declaration, the IMAT forms the basis of the Unified Coordination Staff (UCS) with state personnel, and is no longer referred to as an IMAT.

- **Joint State/Federal Operations**: When the federal government responds to an emergency or disaster within California, it will coordinate with the State to establish a Unified Coordination Group (UCG) in accordance with Unified Command principles. The UCG will integrate state and federal resources and set priorities for implementation. As described in the California Catastrophic Incident Base Plan: Concept of Operations, when the Federal Government responds to a disaster or emergency, the UCG may activate a Joint Field Office (JFO) to facilitate the unified operation. When a JFO is activated, the SOC will transfer operations to that facility.

  For a catastrophic event, the leadership of agencies with jurisdictional or functional authorities will join together in a team effort to form a UCG. The UCG includes federal and state emergency management officials, and senior officials from other agencies or organizations that have: (1) primary statutory or jurisdictional responsibility; and/or (2) significant operational responsibility for one or more functions of an incident response. The State Coordinating Officer (SCO) and Federal Coordinating Officer (FCO) lead the UCG.

10.3. ALERT AND WARNING

Each jurisdiction within the state is responsible for preparing for a disaster including establishing methods for alerting and warning the public, mobilizing resources, and initiating protective actions. Cal OES operates the California State Warning Center (CSWC), which is staffed 24 hours a day, 365 days a year to serve as the official state level point of contact for emergency notifications. From this center, CSWC personnel maintain contact with County Warning Points, State agencies, federal agencies, National Warning Center, non-governmental organizations, and the private sector.

- **Notifications Received by the Warning Center:** Local governments and Operational Areas notify the CSWC of emergencies that affect their community in accordance with existing laws, protocols, or when state assistance is requested or anticipated. Notifications may occur directly or via the Cal OES Regional Offices. Local Emergency proclamations should be sent to the CSWC in order to keep the Governor and key State agencies abreast of emergency conditions or when state assistance is requested.

    - **Earthquake Notifications:** The CSWC receives notification of earthquakes from the California Integrated Seismic Network (CISN), National Earthquake Information Center (NEIC), and the United States Geological Survey (USGS). CISN is a statewide network that provides the basic information for California earthquakes shown on the CISN Display. The CISN Display is an Internet-based, rapid earthquake notification system that receives earthquake information from networks worldwide.

    - **Tsunami Notifications:** The CSWC receives tsunami notifications from the National Tsunami Warning Center primarily through the National Warning System (NAWAS), however there are also redundant information paths. The National Oceanic and Atmospheric Administration (NOAA) issues tsunami alerts in the following categories: Warning (inundation expected; evacuation suggested), Advisory (strong currents; move off and away from the water), Watch (stay tuned for threat assessment), and Information Statement (no threat).

    - **Volcano Notifications**: The CSWC receives volcano notifications from the USGS California Volcano Observatory and the USGS Volcano Notification Service.

    - **Weather Notifications:** Notification of severe weather is received from the National Weather Service (NWS).

    - **Energy Notifications:** The California Independent Systems Operator (California ISO) monitors the California power grid, which consists of a network of long-distance, high-voltage transmission lines and substations that carry bulk electricity to local utilities for distribution to customers. When the grid is unable to meet electrical demands, the California ISO will direct utilities to reduce their load and issue emergency notices of energy interruptions. The CSWC will be contacted by the California ISO when the operating reserves reach these critical levels. The CSWC may also coordinate with the California Utilities Emergency Association (CUEA) regarding energy emergencies or needs.

    - **Hazardous Materials / Oil Spill Release Notifications:** In accordance with state law, hazardous materials handlers, any employees, authorized representatives, agents or designees of handlers shall, upon discovery, immediately report any release or threatened release to the CSWC.

    - **Nuclear Power Plant Notifications:** The CSWC receives notifications of nuclear power plant events directly from Diablo Canyon Power Plant. Secondary notifications may be received from the affected county sheriff departments via California Law

Enforcement Telecommunications System (CLETS), California Law Enforcement Radio System (CLERS) and Operational Area Satellite Information System (OASIS) or the California Warning System (CALWAS).

- **Communications, Alert, and Warning Systems:** The CSWC is responsible for informing, communicating, alerting, and notifying local governments, Operational Areas, state officials, and the Federal government of natural or human-caused emergencies. To meet this responsibility, the CSWC is equipped with a number of telephone, data, and radio systems, including the CALWAS, CLETS, NWS Weather Wire, CSWC message switching computer, and the CISN and Dialogic Automated Notification System, all of which are described in more detail later in this document. Most of these systems are used on a day-to-day basis; while others are available for use in an emergency, as conditions require.

  - **NAWAS and CALWAS:** The CSWC maintains the California Warning System (CALWAS) to communicate with Cal OES Regional Offices and County Warning Points during an emergency. CALWAS is part of the National Warning System (NAWAS).

  - **OASIS, CLETS, CLERS, and EAS:** The Operational Area Satellite Information System (OASIS), California Law Enforcement Telecommunications System (CLETS), and the California Law Enforcement Radio System (CLERS) are utilized to alert and notify sheriff and police departments, and key Emergency Alert System (EAS) stations.

  - **Radios and Microwave Systems:** The State agencies Radio / Microwave System is utilized to communicate information to State agencies and Emergency Operations Centers (EOC).

- **Alerting and Warning State and Local Agencies:** Multiple communication channels will be used to maintain constant communication with local, state, and federal communications centers and to ensure the State can quickly respond to any developing emergencies. The CSWC provides local and State agencies with a broad range of information, including, but not limited to:

  - Local emergencies;
  - Earthquakes;
  - Tsunamis (seismic sea waves);
  - Volcanic Eruption;
  - Floods;
  - Dam and levee failures;
  - Major fires;
  - Hazardous material spills;
  - Radiological and nuclear incidents;
  - Radioactive fallout wind data;
  - Energy emergencies;

- Foreign animal disease;
- Missing and overdue aircraft or runaway trains;
- Terrorism threat;
- Precipitation forecasts;
- Winter road information;
- Major road closures;
- Weather watches and warnings;
- Severe weather emergencies;
- Search and rescue incidents; and,
- Multi-injury incidents.

- **Notification of Emergency Personnel:** The CSWC maintains a list of agencies and personnel critical to emergency operations. The CSWC will utilize pagers, SMS texting, cell phones, telephones, emails, smartphones, and the Dialogic Automatic Notification System to notify state personnel of an emergency and help guide response teams across the state.

Diagrams of California's warning systems are provided in *Attachment E – California Warning Systems*.

10.4. INTELLIGENCE GATHERING AND SITUATION REPORTING

Emergency Operations Centers and threat assessment centers are responsible for gathering timely, accurate, accessible, and consistent intelligence during an emergency. Situation reports should create a common operating picture and be used to adjust the operational goals, priorities, and strategies.

To ensure effective intelligence flow, emergency response agencies at all levels must establish communications systems and protocols to organize, integrate, and coordinate intelligence among the affected agencies. The flow of situation reports among the levels of government should occur as shown below:

- **Field Situation Reports:** Field situation reports should be disseminated to each responsible jurisdiction EOC.

- **Local EOC:** Local EOC should summarize reports received from the field, department operations centers, and other reporting disciplines and send to the Operational Area (OA) EOC.

- **OA EOC:** The OA EOC should summarize reports received from responsible jurisdictions EOC, field units, department operations centers, and other reporting disciplines and forward to the Cal OES REOC.

- **REOC:** The REOC should summarize situation reports received from the OA EOC, state field units, state department operations centers, and other reporting disciplines and forward to the State Operations Center (SOC).

- **SOC:** The SOC will summarize situation reports received from the REOC, state department operations centers, State agencies, and other reporting disciplines and distribute to state officials and others on the distribution list.

- **Joint Field Office (JFO):** When the state-federal JFO is activated, the REOC and SOC situation reports will be assimilated into the JFO situation report. The REOC organization may be co-located with the federal organization at the JFO.

10.5. PUBLIC INFORMATION

Public information consists of the processes, procedures, and systems to communicate timely and accurate information by accessible means and in accessible formats on the incident's cause, size, and current situation to the public, responders, and additional stakeholders (both directly affected and indirectly affected). Public information must be coordinated and integrated as part of the Multiagency Coordination System across jurisdictions, agencies, and organizations; among federal, state, tribal, and local governments; and with the private sector and NGOs. Public information includes processes, procedures, and organizational structures required to gather, verify, coordinate, and disseminate information.

10.5.1. PUBLIC OUTREACH PROGRAMS

Emergency management officials must communicate and educate the public (including businesses, individuals, and residents) on the risks and issues faced by the community and provide resources to mitigate risks and support preparedness. Outreach programs should address information on established emergency plans and procedures, and delineate the roles and responsibilities of first responders and the public immediately following an emergency and during a sustained response.

10.5.2. EMERGENCY PUBLIC INFORMATION

During an emergency, responsible jurisdictions disseminate information about the emergency to keep the public informed about what has happened, the actions of emergency response agencies, and to summarize the expected outcomes of the emergency actions.

- **Local Government Responsibilities:** Responding jurisdictions and local government will provide immediate and critical emergency public information to their constituents.

- **State Government Responsibilities:** Cal OES will coordinate the state's emergency public information efforts and provide support to other State agencies to ensure the state government issues accurate, timely, clear, concise, and consistent accessible messages.

- **State Assistance to Local Officials:** State assistance may be required when:

  - The means of dispersing public information at the local government level is damaged or overwhelmed.
  - Critical information needs to be disseminated to victims, responders, recovery personnel, and members of the media.
  - Multiple response agencies and levels of government need to work cooperatively to provide consistent emergency information.

- **Communications and Public Information** – Emergency notification systems must be accessible to ensure effective communication for people who are deaf/hard of hearing, blind/low vision, deaf/blind or have limited English proficiency. During emergency broadcasts or emergency notifications, Governments should work with broadcasts news outlets to ensure interpreters are viewable. Communication access is complex for people with disabilities and others with access and functional needs. Communication is information that is understood, used, and trusted. People with reduced or no ability to see, hear, speak, read, remember, and understand, or who have cognitive limitations and limited language proficiency may have difficulty receiving and understanding emergency information.

10.5.3.JOINT INFORMATION SYSTEM (JIS)

Under SEMS, public information is directly managed and controlled by the jurisdictions with responsibility for emergency response. An Incident Commander coordinates incident-specific public information through a Public Information Officer (PIO) within the Joint Information Center (JIC).

Collectively, the activated JICs form the Joint Information System (JIS) which is the coordinated and integrated system in which PIOs are communicating amongst each other to form unified messages on lifesaving measures, evacuation routes, threat and alert methods, and other protective actions to numerous audiences in an accurate, timely, accessible, and consistent manner.

- **Joint Information System (JIS):** The JIS provides the mechanism to organize, integrate, and coordinate information to ensure timely, accurate, accessible, and consistent messaging across multiple jurisdictions and/or disciplines with the private sector and NGOs. It includes the plans, protocols, procedure, and structures used to provide public information. Federal, state, tribal, territorial, regional, local, and private sector Public Information Officers (PIO) and established JICs are critical supporting elements of the JIS. Key elements include the following:

  - Interagency coordination and integration
  - Gathering, verifying, coordinating and disseminating consistent messages
  - Support for decision-makers

- Flexibility, modularity and adaptability

- **Joint Information Center (JIC):** The JIC is a central location that facilitates operation of the JIS. It is a location where personnel with public information responsibilities perform critical emergency information functions, crisis communications, and public affairs functions. A JIC may be established at various levels of government, at incident sites, or can be components of federal, state, tribal, territorial, regional, or local MACS (e.g., MAC Groups or EOC). Typically, an incident-specific JIC is established at a single, on-scene location in coordination with federal, state, and local agencies (depending on the requirements of the incident). Informational releases are cleared through Incident Commander (IC)/Unified Command, and/or the EOC/MAC Group.

- **Public Information Officer (PIO) Coordination Teams:** When a JIC is established, it will be staffed with PIOs from the responding agencies, who will coordinate as a team to:

  - Gather, verify, and produce information for dissemination to the media and public (such as news releases, background information, fact sheets, public service announcements, briefings, and news conference materials).
  - Respond to media questions and requests.
  - Schedule media releases, briefings, news conferences, interviews, public service announcements, etc.
  - Arrange for media interviews and tours.
  - Assign Agency Representatives (AREP) to coordinate information from their agency with other team members before it is released to the public.

- **Media Centers:** Agencies may establish a Media Center that serves as a central location for media briefings, conference, and information distribution. Media Centers may be activated independently or as part of a larger JIC.

- **Inquiry Centers:** Agencies may activate an Inquiry Center to centralize information sharing between the public, the media, and government. Inquiry Centers should be directly linked to Media Centers or Joint Information Centers as appropriate. Inquiry Centers allow for:

  - Establishment of Public Information Hotlines (including TTY capability for individuals who are deaf) and hotline staff.
  - Enhancing information to meet the needs of those whose primary language is not English and to meet the functional needs of the blind, deaf, and hard of hearing.
  - Monitoring of social media, radio, and television stations, and informing the PIO Coordination Team of inaccuracies.
  - Sharing of information about the emergency or the government's response.
  - Identification of information trends, which in turn allows PIOs to focus on providing targeted information.
  - Identification of rumors and misinformation and bringing these to the attention of the PIO Coordination Team.
  - Response to questions using official, verified information that is approved for release.

- Call referrals, as appropriate, to federal, state, local, volunteer, and private sector agencies.
- Current and updated information records.
- Records of questions, responses, and actions.

- **Virtual Joint Information Center:** A virtual JIC may be initiated through technological means when geographical restrictions, incident management requirements, or other limitations preclude physical attendance by Public Information Officers at a central location. Through telephone or video teleconferences, personnel participating in the virtual JIC can meet and coordinate information.

- **Use of 2-1-1 Information and Referral Services:** Local and state governments may consider supplementing their public information programs with established 2-1-1 information and referral services to increase the public's access to vital emergency-related information, including evacuation routes, shelter locations, road closures, to reduce inappropriate calls to 9-1-1, and make referrals to essential health and social services. The 2-1-1 program can improve access to government and nonprofit community services for people who are most at risk, including older adults, individuals with disabilities, non-English speakers, those incapacitated by the disaster, and people new to their communities.

10.6. MUTUAL AID

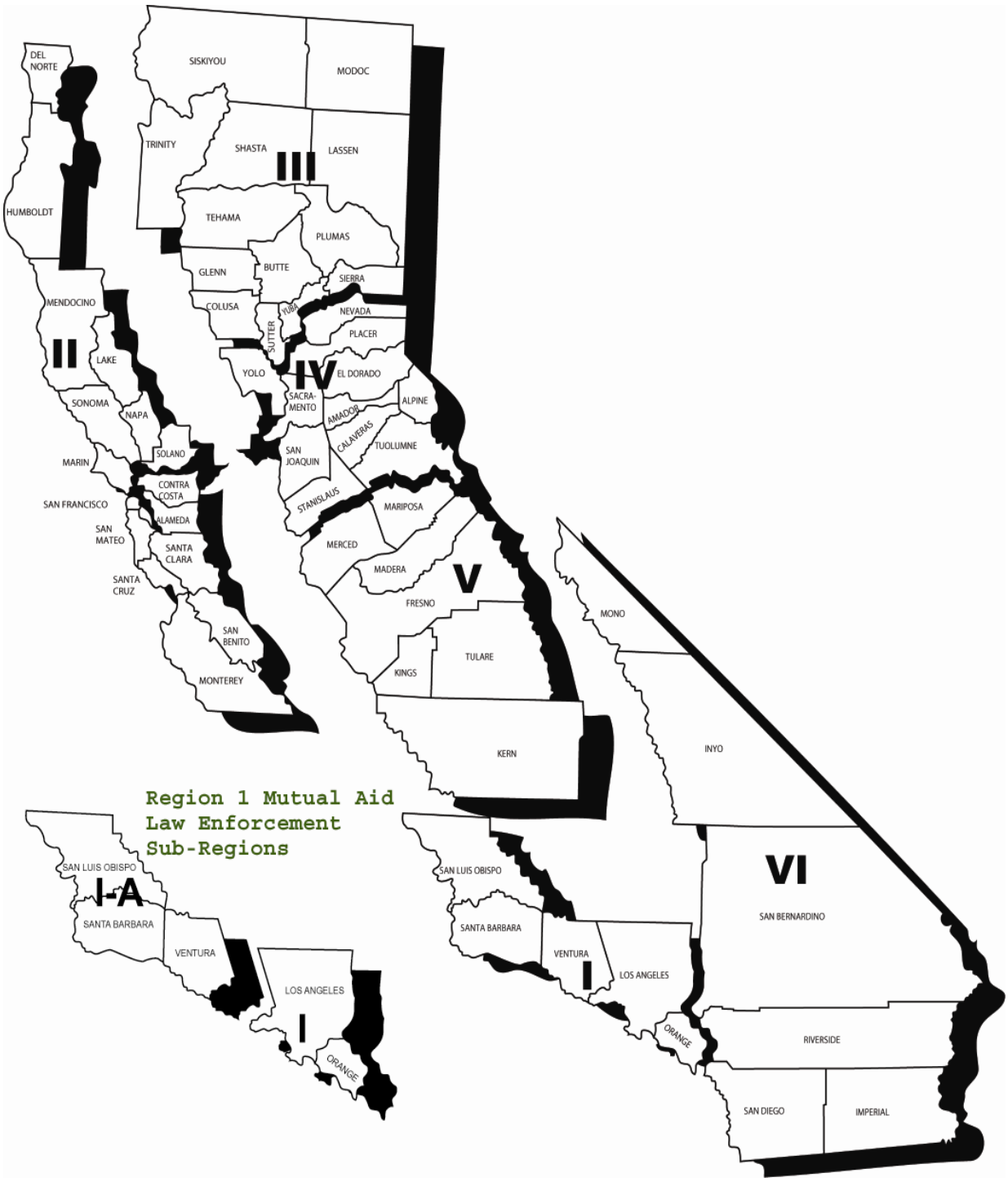
California's emergency assistance is based on a statewide mutual aid system designed to ensure additional resources are provided to the state's political subdivisions whenever their own resources are overwhelmed or inadequate. The basis for this system is the *California Disaster and Civil Defense Master Mutual Aid Agreement* (MMAA), which is entered into by and between the State of California, its various departments and agencies, and the various political subdivisions, municipal corporations, and public agencies to assist each other by providing resources during an emergency. The agreement obligates each signatory entity to provide aid to each other during an emergency without expectation of reimbursement. Under specific conditions, federal and state funding may be appropriated to reimburse public agencies who aid other jurisdictions. If other agreements, memoranda, and contracts are used to provide assistance for consideration, the terms of those documents may affect disaster assistance eligibility and local entities may only be reimbursed if funds are available. This plan promotes the establishment of emergency assistance agreements between public and private sector agencies at all levels.

10.6.1. MUTUAL AID REGIONS

For mutual aid coordination purposes, California has been divided into six mutual aid regions. The purpose of a mutual aid region is to provide for the more effective application and coordination of mutual aid and other emergency related activities. ***Exhibit 10-1 – Mutual Aid Regions*** on the following page illustrates the six mutual aid regions. As shown in the map, Region I has been further divided into two sub-regions to support Law Enforcement Mutual Aid.

Each party to the MMAA must ensure adopted and approved emergency plans document how public resources are mobilized to render mutual aid during any type of emergency.

Exhibit 10-1 – Mutual Aid Regions



10.6.2.LAW ENFORCEMENT MUTUAL AID PLAN

The Cal OES Law Enforcement Branch coordinates all inter-regional and State agency activity relating to mutual aid under the *Law Enforcement Mutual Aid Plan*, its annex *Search and Rescue Mutual Aid Plan*, and the *Coroner Mutual Aid Plan*.

- **Law Enforcement Mutual Aid Plan:** The Law Enforcement Mutual Aid Plan delineates current State policy concerning law enforcement mutual aid. The plan describes the standard procedures used to acquire law enforcement mutual aid resources and the method to ensure coordination of law enforcement mutual aid planning and readiness at the local, state, and federal levels.

- **Search and Rescue Mutual Aid Plan:** The Search and Rescue (SAR) Mutual Aid Plan supports and coordinates responses of personnel and equipment to SAR incidents including:

  - Searching for, locating, accessing, stabilizing, rescuing, and transporting victims in/from locations not reasonably accessible from roadways.
  - Searching for downed aircraft.
  - Conducting high-angle rope rescue.
  - Implementing water rescues from the ocean, swift water, or flood.
  - Operating in areas where access to victims requires equipment and personnel transported by foot or unconventional vehicles.
  - Operating in locations remote from vehicular access.
  - Operating in situations that require responder personal self-sufficiency.
  - Operating during prolonged operational periods in wilderness terrain and dangerous weather.
  - Investigations of missing person incidents that may involve criminal act.

- **Coroner Mutual Aid Plan:** The Coroner Mutual Aid Plan is a companion of the California Law Enforcement Mutual Aid Plan. Both derive their authority from the California ESA and from the California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA). The Coroner Mutual Aid Plan describes the statewide sheriff/coroner, coroner, and medical examiner organization, mobilization and functions, as well as other assistance available from the American Academy of Forensic Sciences, the California State Coroners Association, and other State agencies and the resources of the federal government. Mission statements included in this plan provide functional capabilities of the California Governor's Office of Emergency Services, Department of Justice, California Department of Public Health, California Department of Motor Vehicles, California National Guard, California Dental Identification Team, Department of Homeland Security, and Federal Bureau of Investigation.

10.6.3.FIRE AND RESCUE MUTUAL AID PLAN

The Cal OES Fire and Rescue Branch coordinates all inter-regional and State agency activity relating to mutual aid under the *California Fire Service and Rescue Mutual Aid Plan*. The mutual aid plan provides for systematic mobilization, organization, and operation of necessary fire and rescue resources of the State and its political subdivisions in mitigating the effects of disasters, whether natural or human-caused.

- **Urban Search and Rescue Mutual Aid Plan:** The Cal OES Fire and Rescue Branch supports and coordinates responses of personnel and equipment to Urban Search and Rescue (US&R) incidents that include searching for, locating, and rescue of victims from locations reasonably accessible from roadways, as well as for locating and rescuing victims of urban accidents and disasters with heavy rescue and fire suppression capabilities that are generally truck-based. A US&R incident (typically known location of victim(s)) would include searching for, locating, and rescuing victims of structure collapse, construction cave-ins, trench, confined space, high angle structure rope rescue, and similar accidents, disasters, and water rescues (ocean, swift water, and flood).

10.6.4.PUBLIC HEALTH AND MEDICAL MUTUAL AID SYSTEM

The Emergency Medical Services Authority (EMSA) and the California Department of Public Health (CDPH) coordinate inter-regional and State agency activity relating to mutual aid as described in the *California Public Health and Medical Emergency Operations Manual (EOM)*.

The EOM establishes a coordinated system to provide public health and medical resources e.g., medical equipment and supplies, medical transportation, or healthcare personnel from both the private and public sectors to requesting local jurisdictions impacted by the disaster. In addition to EMSA and CDPH, this coordination system includes the Regional Disaster Medical and Health Coordination (RDMHC) Program within each of California's six mutual aid regions (established by the California Health and Safety Code, Division 2.5, Chapter 3, Article 4, Section 1797.152), the Medical Health Operational Area Coordination (MHOAC) Program within the Operational Area (established by the California Health and Safety Code, Division 2.5, Chapter 3, Article 4, Section 1797.153), and partners at the local level including local health departments (LHDs), local environmental health departments (EHDs), and local emergency medical services agencies (LEMSAs). Incidents with public health and medical impact often require the coordinated involvement of public health, environmental health, health care providers, and emergency medical services.

10.6.5.EMERGENCY MANAGEMENT MUTUAL AID PLAN (EMMA)

The *Emergency Management Mutual Aid Plan* describes the process by which the State and its political subdivisions coordinate to support the emergency management operations in affected jurisdictions under the California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA). The purpose of EMMA is to provide emergency management personnel and technical

specialists to support the disaster operations of affected jurisdictions in their Emergency Operations Center. In order to carry out the concepts of EMMA, the State has prepared a companion *Emergency Management Mutual Aid Guidance* document that provides policies, procedures, checklists, and forms to support mutual aid administration.

10.6.6.MUTUAL AID COORDINATION

Formal mutual aid requests follow specified procedures and are processed through pre-identified mutual aid coordinators. Mutual aid requests follow discipline-specific chains (i.e. fire, law enforcement, emergency manager) from one level of government to the next. The mutual aid coordinator receives the mutual aid request and coordinates the provision of resources from within the coordinator's geographic area of responsibility. In the event resources are unavailable at one level of government, the request is forwarded to the next higher level of government to be filled.

- **Field Level Requests:** Requests for MMAA resources originate from the Field Level and are managed by the Incident Commander (IC). If the IC is unable to obtain the resource through existing local channels, the request is elevated to the next successive government level until obtained or cancelled.

- **Local Government Request:** Local jurisdictions are responsible for the protection of life and property within the municipal geographic boundaries. The local jurisdiction where the incident occurred should assess its resource inventory and existing local agreements to determine if the requested resource is available. When locally committed resources are exhausted and mutual aid is needed, the local official will request assistance from the OA Mutual Aid Coordinator.

- **Operational Area Requests:** The OA is a composite of its political subdivisions, (i.e., municipalities, contract cities, special districts, and county agencies). The OA Mutual Aid Coordinator assesses the availability of resources within the OA and fulfills the resource request based upon that assessment. In the event resources are unavailable at the OA level, the request is forwarded to the responsible Regional Mutual Aid Coordinator to be filled.

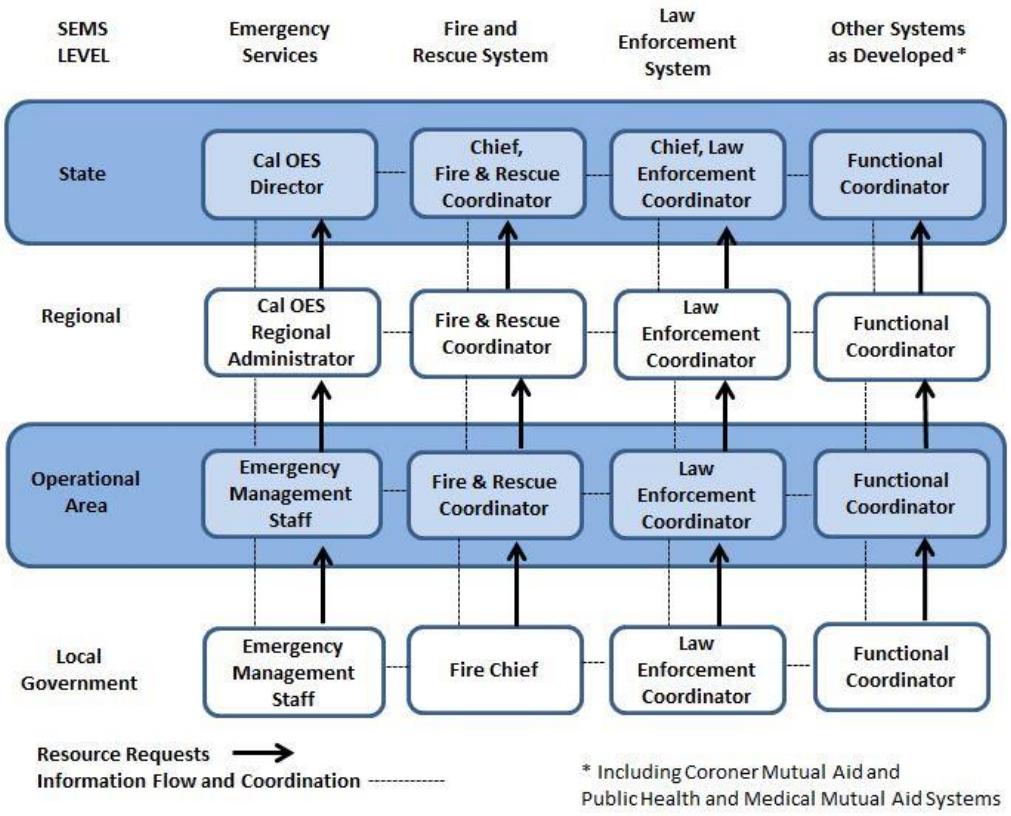
- **Region Level Requests:** The State is geographically divided into six Mutual Aid Regions. For Law Enforcement Mutual Aid, Region I is divided into two sub-regions. Each Mutual Aid Region is comprised of multiple Operational Areas and has a Regional Mutual Aid Coordinator. The Regional Mutual Aid Coordinator is granted the authority to coordinate the mutual aid response of discipline-specific resources within the Region to support a mutual aid request by a jurisdiction also within the Region. In the event resources are unavailable at the Region level, the request is forwarded to the State Mutual Aid Coordinator to be filled.

- **State Level Requests:** On behalf of the Governor, the Director of Cal OES has the responsibility for coordination of state mutual aid resources in support of local

jurisdictions during times of emergency. The Director will analyze and coordinate the request by forwarding the request to an unaffected REOC or tasking the appropriate State agency to fill the need.

Exhibit 10-2 – Discipline-Specific Mutual Aid Systems document the flow of information, resource requests, and resources within specific mutual aid agreement relative to the SEMS organization levels.

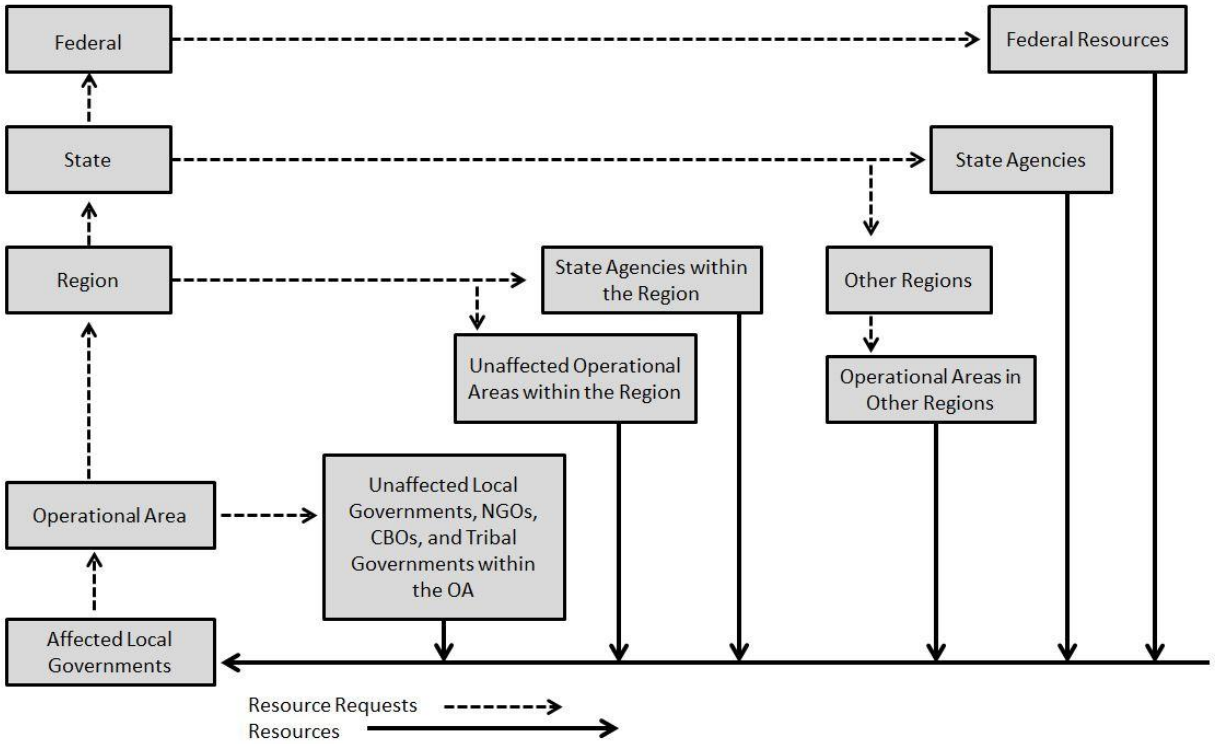
Exhibit 10-2 – Discipline-Specific Mutual Aid Systems



10.6.7. FLOW OF MUTUAL AID AND OTHER RESOURCE REQUESTS

Exhibit 10-3 – Flow of Requests and Resources depicts the resource management process for the State under SEMS. In this model, the affected local government has the ability to access all stakeholders at all levels of the system.

Exhibit 10-3 – Flow of Requests and Resources



10.6.8.EMERGENCY MANAGEMENT ASSISTANCE COMPACT (EMAC)

California is a member of the Emergency Management Assistance Compact (EMAC), a congressionally ratified organization that provides form, structure, and procedures for rendering emergency assistance between states. After a state of emergency declaration, California can request and receive reimbursable assistance through EMAC from other member states quickly and efficiently without issues of liability. The Director of Cal OES and the State's EMAC Coordinator are responsible for facilitating requests for assistance pursuant to EMAC.

10.6.9.RESOURCE MANAGEMENT

It is the policy of the State that contracts and agreements for emergency response and disaster repair and restoration should be entered into by the lowest level of government possible. When local resources are exhausted and additional resources are required, resource requests will follow an established process for ordering, tracking, mobilizing, and demobilizing. Depending on the scale of the emergency, limited resources may need to be rationed or controlled.

- **Resource Ordering:** All resource requests, at each level, must include the following:
  - Clearly describe the current situation.
  - Describe the requested resources.

- Specify the type or nature of the service the resource(s) will provide.
- Provide delivery location with a common map reference.
- Provide local contact at delivery location with primary and secondary means of contact.
- Provide the name of the requesting agency and/or OA Coordinator contact person.
- Indicate time frame needed and an estimate of duration.
- Indicate if the logistical support (food, shelter, fuel, and reasonable maintenance) is required, if the request involves personnel and/or equipment with operators.

For more information on resource ordering, refer to the *SEMS Resource Ordering and Tracking: A Guide for State and Local Government* on the Cal OES Website (www.caloes.ca.gov).

- **Resource Directories:** Each State agency and local government entity should identify sources for materials and supplies internally and externally. The SOC and REOC maintain a list of State agencies, their roles, and responsibilities as outlined in this plan, and the common resources available from each.

- **Daily Updates:** The requesting agencies are responsible to report to Cal OES the number and status of resources deployed on a mission on a daily basis.

- **Federal Assistance:** When resources are not available within the State or through existing agreements with other states, California may request assistance from the federal government. Requests for federal assistance during an emergency will be coordinated through the SOC.

10.6.10.STATE AGENCY MISSION TASKING

It is the policy of the State of California that all executive branch agencies of state government will provide immediate and efficient response to emergencies. Cal OES may direct a State agency to perform a service outside their normal statutory responsibility. Agencies must be mindful of the fiscal implications of emergency response actions. However, lifesaving response shall not be delayed by concerns for reimbursement or budgetary impacts.

In 2009, Cal OES created the California Emergency Support Functions (CA-ESF) similar to the Federal Emergency Support Functions (ESF) concept. The CA-ESFs bring together discipline specific stakeholders in 18 primary response activities. During response, the CA-ESF stakeholders can provide discipline subject matter expertise regarding resource utilization and capabilities.

- **Mission Coordination**: The SOC or REOC contacts the appropriate State agency to allocate the needed resource. As part of the coordination, the SOC or REOC documents the request in CalEOC and issues a Cal OES Mission Number for the task.

- **Mission Numbers:** Cal OES State agency Mission Numbers issued through the SOC and REOC are valid only for State agencies. Once a mission number is issued, any significant change in the mission, activity, type, work site, scope, or nature must be approved by Cal OES.

- **Contact with Requesting Agency:** The tasked State agency provides the resource requested for the mission; however, the tasked agency has the responsibility to adjust the number, type, and status of resources, in consultation with the requesting agency, to accomplish the mission.

- **Mission Completion Date:** After a mission is approved, the requesting and tasked agencies will establish a mission completion date. If an extension is required, it can only be extended after formal reconsideration by the three parties (requesting entity, tasked agency, and Cal OES).

- **Daily Updates:** The tasked State agencies are responsible to report to Cal OES the number and status of resources deployed on a mission on a daily basis. The State agency will provide continuous updated information to Cal OES, via CalEOC, including the number, type, and status of resources, and any change in status.

- **Cost Recovery:** A Cal OES State agency Mission Number does not guarantee reimbursement, nor does it imply Cal OES will cover the costs of the mission. It does mean Cal OES will endorse claims by the tasked agency for reimbursement from appropriate state and federal government agencies.

10.7. SEQUENCE OF EVENTS DURING DISASTERS

Two sequences of events are typically associated with disasters: One involves the response and the other involves emergency proclamations. The response sequence generally describes the emergency response activities to save lives, protect property, and preserve the environment. This sequence describes deployment of response teams, activation of emergency management organizations, and coordination among the various levels of government. The emergency proclamation sequence outlines the steps to gain expanded emergency authorities needed to mitigate the problem. It also summarizes the steps for requesting state and federal disaster assistance.

10.7.1. BEFORE IMPACT

- **Routine Monitoring for Alerts, Watches, and Warnings:** Emergency officials constantly monitor events and the environment to identify specific threats that may affect their jurisdiction and increase awareness level of emergency personnel and the community when a threat is approaching or imminent.

- **Increased Readiness:** Sufficient warning provides the opportunity for response agencies to increase readiness, which are actions designed to increase an agency's ability to effectively respond once the emergency occurs. This includes, but is not limited to:

  - Briefing government officials.
  - Reviewing plans and procedures.
  - Preparing and disseminating information to the community.
  - Updating resource lists.
  - Testing systems such as warning and communications systems.
  - Precautionary activation of Emergency Operations Centers.

- **Pre-Impact:** When a disaster is foreseen as highly likely, action is taken to save lives and protect property. During this phase, warning systems are activated, evacuation begins, and resources are mobilized.

10.7.2.IMMEDIATE IMPACT

During this phase, emphasis is placed on control of the situation, saving lives, and minimizing the effects of the disaster.

- **Alert and Notification:** Response agencies are alerted about an incident by the public through 9-1-1, an EOC Duty Officer, the California State Warning Center, another response agency, or other method. First responders are then notified of the incident. Upon an alert, response agencies notify response personnel.

- **Resource Mobilization:** Response agencies activate personnel and mobilize to support the incident response. As the event escalates and expands, additional resources are activated and mobilized to support the response. Activation and mobilization continue for the duration of the emergency, as additional resources are needed to support the response. This includes resources from within the affected jurisdiction, or, when resources are exhausted, from unaffected jurisdictions.

- **Incident Response:** Immediate response is accomplished within the affected area by local jurisdictions and segments of the private sector. First responders arrive at the incident and function within their established field-level plans and procedures. The responding agencies will manage all incidents in accordance with ICS organizational structures, doctrine, and procedures.

- **Establishing Incident Command:** Incident Command is established to direct, order, or control resources by virtue of some explicit legal, agency, or delegated authority. Initial actions are coordinated through the on-scene Incident Commander (IC). The Incident Commander develops an initial Incident Action Plan (IAP), which sets priorities for the incident, assigns resources, and includes a common communications plan. If multiple jurisdictions or agencies are involved, the first responders will establish a Unified Incident Command Post (ICP) to facilitate multijurisdictional and multiagency policy

decisions. Area Command may be established to oversee multiple incidents that are handled by separate ICS organizations or to oversee the management of a very large or evolving incident that has multiple incident management teams engaged.

- **Activation of the Multiagency Coordination System (MACS):** Responding agencies will coordinate and support emergency management and incident response objectives through the development and use of integrated Multiagency Coordination Systems (MACS) and MAC Groups. This includes developing and maintaining connectivity capability between ICP, local 9-1-1 Centers, local Emergency Operations Centers (EOC), REOC, the SOC, and federal EOC and NRF organizational elements.

- **Local EOC Activation:** Local jurisdictions activate their EOCs based on the magnitude or need for more coordinated management of the emergency. When activated, Local EOCs help form a common operating picture of the incident by collecting, analyzing, and disseminating emergency information. Local EOCs can also improve the effectiveness of the response by reducing the amount of external coordination of resources by the Incident Commander by providing a single point of contact to support multiagency coordination. When activated, the local EOC notifies the OA lead that the local EOC has been activated.

- **Communications between Field and the EOC:** When a jurisdiction EOC is activated, communications and coordination are established between the IC and the Department Operations Center (DOC) to the EOC, or between the IC and the EOC.

- **Operational Area (OA) EOC Activation:** If one or more Local EOCs are activated, or if the incident requires resources outside the affected jurisdiction, the OA EOC activates. The OA EOC also activates if a Local Emergency is proclaimed by the affected local government. The OA EOC then coordinates resource requests from the affected jurisdiction to an unaffected jurisdiction, or if resources are not available within the Operational Area, forwards the resource request to the REOC and mutual aid coordinators.

- **Regional Emergency Operations Center (REOC) Activation:** Whenever an Operational Area EOC is activated the Cal OES Regional Administrator activates the REOC within the affected region and notifies Cal OES Headquarters. The REOC will then coordinate resource requests from the affected Operational Area to unaffected Operational Areas within the affected region, or if resources are not available within the affected region, forward resource requests to the SOC for coordination.

- **State Operations Center (SOC) Activation:** In the first 72 hours of a catastrophic incident, the SOC will fulfill the role of the Initial Operating Facility (IOF) to focus joint State/Federal operations. Otherwise, the SOC is activated when the REOC activates in order to:

- Continuously monitor the situation and provide situation reports to brief state officials, as appropriate.
- Process resource requests between the affected regions, unaffected regions, and State agency Department Operation Centers (DOC).
- Process requests for federal assistance and coordinate with Federal Incident Management Assistance Teams (IMAT), when established.
- Coordinate interstate resource requests as part of the Emergency Management Assistance Compact (EMAC) or Interstate Disaster and Civil Defense Compact.
- Continuously monitor emergency conditions when activated independently of a REOC.

Exhibit 7-5: SEMS EOC Activation Requirements illustrates the relationships of emergency operations center activations when an emergency occurs (See Section 7).

- **Joint Information Center (JIC) Activation:** Where multiple agencies are providing public information, the lead agencies will work together to analyze the information available and provide a consistent message to the public and the media. Where practical, the agencies will activate a Joint Information Center to facilitate the dissemination of consistent information.
- **Department Operations Center (DOC) Activation:** Each State agency may activate a department operations center to manage information and resources assigned to the incident. If a DOC is activated, an agency representative or liaison may be deployed to facilitate information flow between the two facilities.
- **FEMA Regional Response Coordination Center (RRCC) Activation:** The FEMA RRCC may deploy a liaison or IMAT to the SOC to monitor the situation and provide situational awareness to federal officials.

10.7.3.SUSTAINED OPERATIONS

As the emergency situation continues, further emergency assistance is provided to victims of the disaster and efforts are made to reduce the likelihood of secondary damage. If the situation demands, mutual aid is provided, as well as search and rescue of, shelter and care for and identification of victims.

10.7.4.TRANSITION RESPONSIBILITY TO RECOVERY OPERATIONS

Recovery begins on the day of the disaster. As the initial and sustained operational priorities are met, emergency management officials consider the recovery phase needs. Short-term recovery activities include returning vital life-support systems to minimum operating standards. Long-

term activity is designed to return to normal activities. Recovery planning should include reviews of ways to avert or mitigate future emergencies. During the recovery phase, damage is assessed, local assistance centers and disaster recovery centers are opened, and hazard mitigation surveys are performed.

- **Local Assistance Centers**: Local Assistance Centers (LAC) are opened by local governments to assist communities by providing a centralized location for services and resource referrals for unmet needs following a disaster or significant emergency. The LAC is staffed and supported by local, state, and federal agencies, as warranted, as well as nonprofit and voluntary organizations. The LAC provides a venue at which individuals, families, and businesses can access available disaster assistance programs and services. The LACs need to be physically accessible and information needs to be provided in accessible formats for all community members. If federal resources are authorized, a state-federal Disaster Recovery Center (DRC) may be co-located with the LACs.

- **Joint Field Office:** The state coordinates with FEMA as necessary to activate a JFO to coordinate federal support for the emergency. The state will appoint a State Coordinating Officer (SCO) to serve as the state point of contact. A Federal Coordinating Officer (FCO) is appointed upon a Presidential Declaration of an Emergency or Major Disaster.

- **Demobilization:** As resources are no longer needed to support the response, or the response activities cease, resources are demobilized. Demobilization includes provisions to address and validate the safe return of resources to their original location, and includes processes for resource tracking and ensuring applicable reimbursement. Where applicable, demobilization should include compliance with mutual aid and assistance provisions.

10.7.5.EMERGENCY PROCLAMATIONS

The California ESA provides for three types of emergency proclamations in California: (1) Local Emergency, (2) State of Emergency, and (3) State of War Emergency.

Emergency proclamations expand the emergency powers and authorities of the state and its political subdivisions. They also provide a mechanism for unaffected jurisdictions to provide resources and assistance to the affected jurisdictions. Although emergency proclamations facilitate the flow of resources and support to the affected jurisdictions and local government, they are not a prerequisite for rendering mutual aid and assistance under existing agreements or requesting assistance from the American Red Cross (ARC), disaster loan programs designated by the U.S. Small Business Administration (SBA), or the U.S. Department of Agriculture (USDA).

- **Local Emergency Proclamation:** A local governing body or designee may proclaim a Local Emergency if there is extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city where the declaring entity is

overwhelmed and unable to abate an existing or potential emergency and requires resources from other unaffected political subdivisions and jurisdictions.

A Local Emergency provides local governing bodies with expanded emergency police powers and authorities, which include:

- Authorization to promulgate and suspend local orders and regulations necessary to provide for the protection of life and property.
- Authority to acquire or commandeer supplies and equipment for public use.
- Power to conduct and perform emergency response activities under emergency conditions with broadened immunities from legal liability for performance or failure of performance.

- **Cal OES Notification:** When conditions and time allow, the local governing body or designee drafts and signs a Local Emergency Proclamation. The local EOC advises the OA EOC of the proclamation and, in turn, the OA EOC advises the Cal OES Regional Administrator.

- **Request for the Governor to Proclaim a State of Emergency:** When emergency conditions exceed, or have the potential to exceed, local resources and capabilities, local governments may request state assistance under the California Emergency Services Act (ESA). Further, local governments can request cost reimbursement from the state for disaster-related costs under the California Disaster Assistance Act (CDAA). The formal request may be included in the original emergency proclamation or as a separate document. The request must be received within 10 days of the event.

- **Request for Cal OES Director's Concurrence:** Local governments can request cost reimbursement from the state for certain disaster-related costs under the CDAA following the proclamation of a Local Emergency, provided the local emergency was proclaimed within 10 days of the emergency.

- **Initial Damage Estimate (IDE):** The Governor's Proclamation request should include a copy of the affected jurisdiction's proclamation document and an Initial Damage Estimate (IDE) that estimates the severity and extent of the damage caused by the emergency. The IDE information should also be provided within CalEOC under the appropriate event and include all of an affected operational area's governing bodies, special districts, and private nonprofit organizations impacts. An IDE may not be required for sudden emergencies with widespread impacts, emergencies of significant magnitude, or during fast-moving emergencies where immediate response assistance is necessary.

- **State Pre-Assessment:** To assist the Governor in determining if funding under CDAA should be granted, the IDE is reviewed, and if warranted, a State Pre-Assessment is conducted by the Cal OES Recovery Section's proclamation team. Cal OES works with

the local jurisdictions' emergency management and/or public safety agencies in the Operational Areas affected by the emergency to accomplish these assessments.

- A**nalysis of Request:** The request and the IDE are evaluated by Cal OES Recovery Section proclamation team and a recommendation is made to the Governor through the Director of Cal OES. The decision to approve the request is based on the jurisdiction's ability to respond and recover using such factors as the amount and type of damage, the potential needs of the affected jurisdiction, availability of local government resources, recent disaster history, and the state hazard mitigation history.

- **Preliminary Damage Assessment:** If the State Pre-Assessment determines an incident is of such magnitude to be beyond the capabilities of the affected local government and the State, Cal OES will coordinate a joint Preliminary Damage Assessment (PDA) with the appropriate federal partners and determine if the incident is of sufficient severity to require federal assistance. This process could take a few days to a week depending on the magnitude of the incident. The PDA also identifies any unmet needs that may require immediate attention. Similar to the IDE, the PDA may not be required if immediate response assistance is necessary.

- **Proclamation of a State of Emergency:** The Governor proclaims a State of Emergency based on the formal request from the local governing body and the recommendation of Cal OES. If conditions and time warrant, the Governor drafts and signs a formal State of Emergency Proclamation. The Governor has expanded emergency powers during a proclaimed State of Emergency. The Governor:

    - Has the right to exercise police power, as deemed necessary, vested in the State Constitution and the laws of California within the designated area.

    - Is vested with the power to use and commandeer public and private property and personnel, to ensure all resources within California are available and dedicated to the emergency when requested.

    - Can direct all State agencies to utilize and employ personnel, equipment, and facilities for the performance of any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency, and can direct them to provide supplemental services and equipment to political subdivisions to restore any services in order to provide for the health and safety of the residents of the affected area.

    - May make, amend, or rescind orders and regulations during an emergency and temporarily suspend any non-safety-related statutes, ordinances, regulations, or rules that impose restrictions on the emergency response activities.

    - Can request federal assistance and resources.

- Can authorize funding under the CDAA when the magnitude and severity of an emergency is beyond a local government agency's capacity and capability to respond and recover.

- **Governor's Proclamation Without a Local Request:** A request from the local governing body is not always necessary for the Governor to proclaim a State of Emergency. The Governor can proclaim a State of Emergency if the safety of persons and property in California are threatened by conditions of extreme peril or if the emergency conditions are beyond the emergency response capacity and capabilities of the local authorities.

- **Proclamation of a State of War Emergency:** In addition to a State of Emergency, the Governor can proclaim a State of War Emergency whenever California or the nation is attacked by an enemy of the United States, or upon receipt by California of a warning from the federal government indicating such an enemy attack is probable or imminent. The powers of the Governor granted under a State of War Emergency are commensurate with those granted under a State of Emergency.

- **State Request for a Presidential Declaration:** When it is clear state capabilities will be exceeded, using the results of the joint PDA, the Governor can request Federal assistance, including assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The Stafford Act authorizes the President to provide financial and other assistance to state and local governments, certain private nonprofit organizations, and individuals to support response, recovery, and mitigation efforts following Presidential emergency or major disaster declarations.[29]

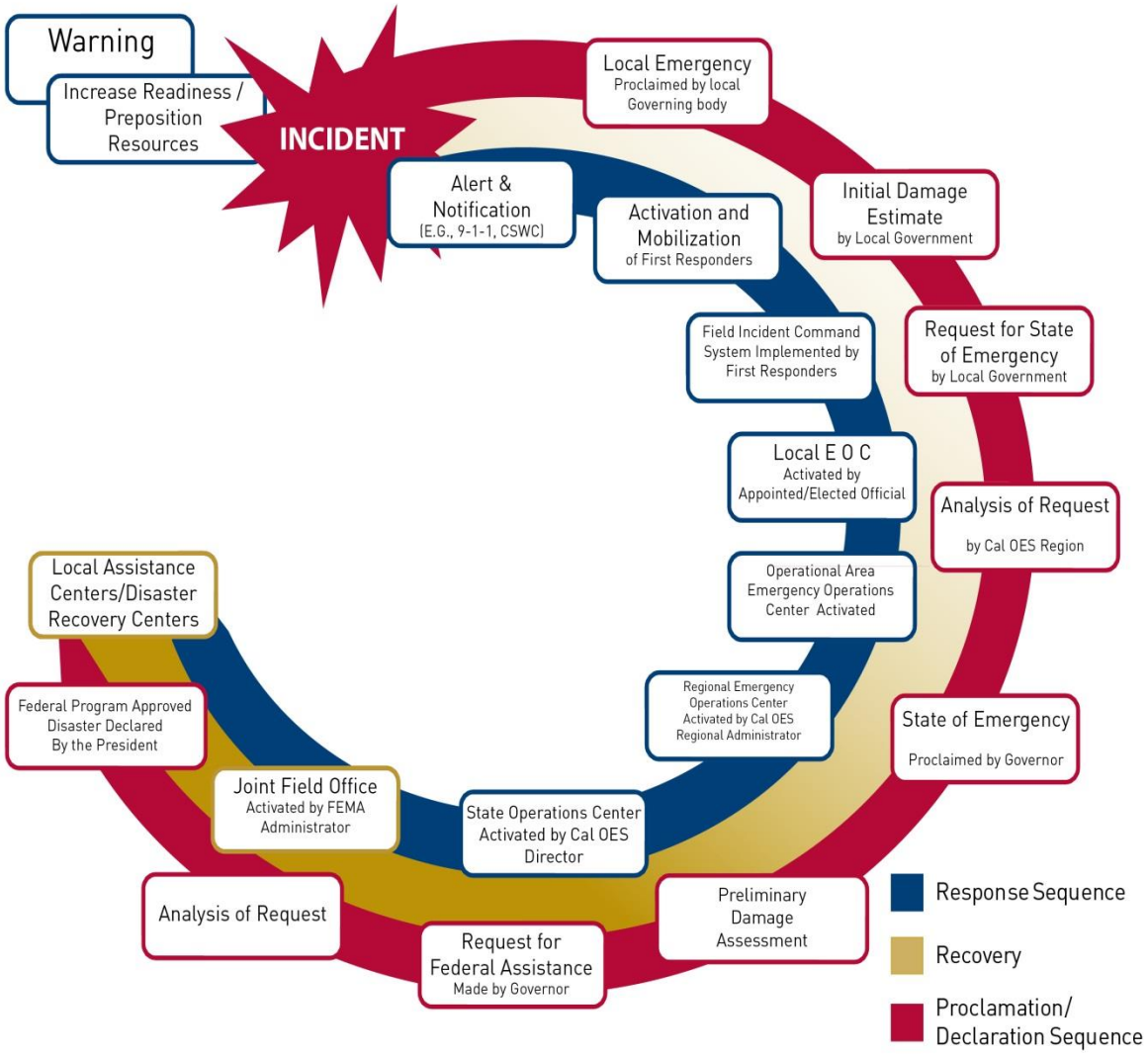
- **Federal Analysis of the State's Request:** The FEMA Regional Administrator assesses the situation and the request and makes a recommendation to the President through the Federal Department of Homeland Security on a course of action. The decision to approve the request is based on such factors as the amount and type of damage, the potential needs of the affected jurisdiction and the state, availability of state and local government resources, the extent and type of insurance in effect, recent disaster history and the state's hazard mitigation history.

- **Federal Declarations without a PDA:** If the incident is so severe the damage is overwhelming and immediately apparent, the President may declare a major disaster immediately without waiting for the joint PDA process described above.

- **Declaration of Emergency or Major Disaster:** The President of the United States can declare an Emergency or Major Disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC §5121 et seq.), thereby providing federal government resources to support the states' response, recovery, and mitigation activities. While Presidential Declarations under the Stafford Act release federal resources and funding to support response and recovery, federal agencies may also provide assistance under other authorities or agreements that do not require a Presidential Declaration.

The sequence of activities occurring for the emergency response and the proclamation process is illustrated in ***Exhibit 10-4 – Response Phase Sequence of Events*.**

Exhibit 10-4 – Response Phase Sequence of Events



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11. Recovery Concept of Operations

The recovery phase of an emergency or disaster is often defined as restoring a community to its pre-disaster condition. More realistically, recovery is the process of re-establishing a state of normalcy in the affected communities. The specific approach to recovery operations following a disaster will be determined by the location, type, magnitude, and effects of the incident. Local governments are encouraged to establish a pre-event Recovery plan which includes debris management.

- **Recovery:** While the immediate lifesaving activities are occurring, emergency managers are simultaneously assessing how soon the response phase can transition to recovery. Critical response phase operations will gradually shift to assisting individuals, households, businesses, and governments in meeting basic needs and returning to self-sufficiency.

- **Short-Term Recovery:** Short-term recovery operations begin concurrently with or shortly after the commencement of response operations. Although referred to as "short-term" recovery, these activities may last for weeks. Short-term recovery includes actions required to:

  - Stabilize the situation.
  - Restore services.
  - Implement critical infrastructure recovery plans to maintain operations during emergencies and the recovery phase.
  - Commence the planning for the restoration of the community, including economic functions.
  - Address debris that poses a threat to public health and safety.

- **Long-Term Recovery:** Long-term recovery continues the short-term recovery actions focusing on community restoration. Long-term recovery may continue for a number of months or years depending on the severity and extent of the damage sustained. These activities include those necessary to restore a community to a state of normalcy, given the inevitable changes that result from a major disaster. Long-term recovery activities require significant planning to maximize opportunities and mitigate risks after a major incident and may include the following:

  - Reconstruction of facilities and infrastructure including the technology systems and services necessary for restoration of all operations functions.
  - Community planning including the development of long-term housing plans.
  - Implementation of waivers, zoning changes, and other land-use legislation to promote recovery.
  - Assistance to displaced families, which may include financial support as well as social and health services.
  - Restoration of the local economic system.
  - Integration of mitigation strategies into recovery efforts.

- Documentation of eligible disaster-related costs for reimbursement through state and federal grant programs.

- **Individuals and Households:** Individuals and households will try to stabilize their circumstances by seeking adequate shelter, assessing damage to their property, resuming work and other regular activities, applying for federal assistance, and obtaining insurance proceeds.

- **The Private Sector:** The private sector engages in activities necessary to resume business operations, including assessing damage, implementing continuity of business plans, caring for employees, shifting operations to temporary facilities or other locations, applying for federal assistance, and obtaining insurance proceeds. In coordination with Cal OES and local governments, businesses also may play a key role in donating goods and services for community recovery.

- **Non-Governmental Organizations (NGO):** Non-Governmental Organizations and Community-Based Organizations (CBO), such as the American Red Cross and the Salvation Army, may or will often provide support to individuals and households who are displaced by a disaster and work with governmental organizations to support the transition from care and shelter operations to interim housing arrangements. Community organizations active before a disaster may expand their services to meet increased needs. Such groups include faith-based organizations, neighborhood health clinics, and food distribution agencies. NGO and CBOs may provide a range of services such as donations management, emergency food, clothing and shelter, mental and spiritual counseling, assist with non-hazardous debris removal from private property, as well as support of housing reconstruction. They provide these services independently or in coordination with federal, state, and local efforts.

- **Local Government Actions:** Local government, including counties, cities, special districts and tribal governments organize recovery operations according to their respective priorities and mechanisms for conducting business. These jurisdictions may work with neighboring jurisdictions to share resources or address common problems. Regional entities may also play a role in setting priorities and obtaining resources for recovery within their respective areas of authority. These organizations may undertake the following actions to stimulate recovery within their respective communities:

  - Conduct damage and safety assessment.
  - Assess the housing situation, identify potential solution, and request support.
  - Assess damage to public facilities and initiate temporary repairs.
  - Assess damage to private property and issue permits for repairs and demolition.
  - Remove debris in accordance with local debris management plan.
  - Open accessible transportation routes.
  - Restore services such as power, water, sewer, and accessible transportation.
  - Activate accessible Local Assistance Centers (LAC) to assist individuals, and households, and businesses.
  - Coordinate program assistance to individuals, businesses, farmer, and ranchers.

- Document disaster-related costs for reimbursement through state and federal grant programs.
- Work with states and federal officials to assess damage, identify needs, and secure financial assistance.
- Resume governmental functions.
- Begin planning for long-term community recovery.
- Enact appropriate zoning variances to accommodate business and commercial repairs.
- Assist with the identification of temporary housing and business space.

- **State Government Actions**: When a State of Emergency is proclaimed in the impacted counties, Cal OES will lead California's recovery operations and coordinate assistance provided by other State agencies and the federal government. When federal assistance is required, Cal OES will work together with the FEMA and other federal agencies to ensure effective delivery of services.

- **State Coordinating Officer:** The Governor appoints a State Coordinating Officer (SCO) to coordinate the State's requests for federal assistance.

- **Federal Coordinating Officer:** In accordance with the Stafford Act, the President appoints a Federal Coordinating Officer (FCO) to manage federal operations and coordinate recovery programs.

- **SOC and REOC Operations:** Initially, Cal OES coordinates recovery operations through the SOC and its REOC. The recovery organization will include functions added to the existing EOC organization.

- **Local Assistance Center (LAC):** Depending on the scope of a disaster and how it affected a community, Cal OES may encourage local governments to establish LACs in which services for disaster survivors can be centralized. LACs may be staffed with representatives from federal, state, local, and nonprofit entities. Disaster survivors may visit LACs to access recovery assistance, as well as referrals to other programs and services not represented. Cal OES provides guidance and support to local governments in the establishment of LACs, and also coordinates the participation of State agency personnel at the centers. "A Guide for Establishing Local Assistance Centers" is available on the Cal OES website (www.caloes.ca.gov).

- **FEMA Disaster Recovery Centers:** In support of local government, FEMA may establish Disaster Recovery Centers (DRC) to centralize public outreach operations for federal agencies and their respective assistance programs and to supplement LAC operations. Cal OES, FEMA, and the local jurisdiction(s) coordinate the locations of LACs and DRCs to best meet the needs of the communities affected by the disaster. In remote areas, a DRC may operate in addition to or in lieu of a LAC.

- **Transition to the Joint Field Office:** As resources and conditions allow, Cal OES and FEMA establish the JFO to manage and coordinate recovery operations. In general, all Federal Emergency Support Functions (ESFs) that support federal response and recovery

efforts operate from the JFO once it is activated. Cal OES and other State agencies deploy staff to the JFO to ensure effective coordination with federal counterparts as part of the joint state/federal operation.

- **JFO Operations:** State and federal officials will coordinate directly with other State agencies, other states, and FEMA to provide recovery resources requested by local governments. Under the direction of the SCO, Cal OES will implement Stafford Act assistance programs with FEMA and coordinate the implementation of long-term recovery operations. Cal OES is responsible for:

  - Requesting federal assistance.
  - Setting priorities for federal assistance in conjunction with local government requirements.
  - Ensuring effective implementation of Individual Assistance programs.
  - Coordinating with the FEMA Disaster Survivor Assistance Team (DSAT).
  - Coordinating with the FEMA Voluntary Agency Liaison (VAL) and supporting long-term recovery efforts with local government, NGOs, CBOs, and faith-based organizations.
  - Managing grants under the Public Assistance Program.
  - Coordinating with State agencies with responsibility for managing grant programs.

- **Multiagency Coordination Groups:** The JFO may establish a Multiagency Coordination (MAC) Group to facilitate coordination among various agencies, technical groups, private sector, and NGOs. The MAC will develop recommendations on criteria for prioritizing limited resources and the need for technical specialist groups, and will provide these recommendations to the SOC and REOC Directors, FCO, and SCO as appropriate.

- **State agency Assistance:** Other State agencies may provide support to local governments under their respective authorities, or under other federal programs. These State agencies coordinate their activities with Cal OES, but may direct operations from their respective Department Operations Centers.

- **Long-Term Recovery Efforts:** Consistent with the National Disaster Recovery Framework, Cal OES will coordinate long-term recovery efforts within the state including the six Recovery Support Functions (RSF):

  - Community Planning and Capacity Building;
  - Economic;
  - Health and Social Services;
  - Housing;
  - Infrastructure Systems; and,
  - Natural and Cultural Resources.

- Pre-disaster planning at the state level supports local recovery before a disaster strikes allowing the state to meet the unique recovery needs of its diversified communities. In

coordination with the state, federal agencies may provide assistance to affected communities to identify recovery needs and potential sources of recovery funding and provide long-term community recovery planning support, as appropriate.

11.1. INDIVIDUAL ASSISTANCE (IA) PROGRAMS

- **Non-Governmental Organizations Assistance:** Many NGOs, such as the American Red Cross, the Mennonite Disaster Services, and the Salvation Army, provide recovery assistance to individuals, families, and community organizations. This may include assistance for shelter, food, clothing, and housing reconstruction. The Cal OES VAL works closely with nonprofit partners to help coordinate assistance.

- **State Assistance:** The State does not have authority to offer financial assistance to private sector disaster victims under the California Disaster Assistance Act (CDAA). However, Cal OES Individual Assistance actively coordinates with federal, state, and local partners, and NGOs to provide other types of recovery assistance to individuals, households, businesses, and the agricultural community. Under the Welfare and Institutions Code, the California Department of Social Services (CDSS) is authorized to assist those who receive the maximum grant under the Federal Individuals and Households Program (IHP) and still have eligible losses as identified by the federal inspector.

  The State also has a variety of other programs and services to assist individuals, businesses, and farmers in recovering from a disaster.

- **FEMA Assistance:** Under the Stafford Act, FEMA provides a wide range of programs for individuals and households including the following assistance:

  - **Housing Assistance:** The IHP provides financial and direct assistance to eligible homeowners and renters displaced from their pre-disaster primary residence.

  - **Other Needs Assistance:** The IHP provides financial assistance for uninsured disaster-related necessary expenses and serious needs, including personal property, medical, dental, and transportation expenses.

  - **Additional Programs:** Other Stafford Act programs that may be made available as a result of a major disaster declaration include: crisis counseling, disaster unemployment assistance, and legal services.

- **Low-Interest Loans:** The U.S. Small Business Administration (SBA) provides low-interest disaster loans to homeowners, renters, businesses, and certain private nonprofit organizations in declared disaster areas. Loans may be made for uninsured physical damage to homes, businesses, and other properties, or for economic losses. As a result of a Presidential disaster declaration, SBA may implement its disaster loan programs. When a Presidential disaster declaration is not viable or warranted, Cal OES may coordinate a

request for SBA assistance. In such circumstances, the damage incurred by the community must meet certain minimum thresholds confirmed through the PDA process.

- **Agricultural Assistance:** The U.S. Department of Agriculture (USDA) provides low-interest loans to farmers, ranchers, and aqua-culturists for physical and/or crop production losses in areas designated a disaster by the Secretary of Agriculture. This designation may also follow a Presidential disaster declaration. As a result, the SBA may also provide economic injury disaster loans to small non-farm businesses, small agricultural cooperatives, and most private nonprofit organizations of any size.

It is important to note that FEMA cannot provide assistance where there is a duplication of benefits. This occurs when assistance can be granted to a disaster survivor through other federal program authorities. It is important to prevent duplication of benefits between disaster assistance programs, disaster relief agencies, and insurance benefits. Duplication of benefits may result in a recoupment of funds from the survivor. Other federal program authorities include other FEMA programs (e.g., Public Assistance or Hazard Mitigation Assistance) and programs under other federal agencies, such as the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service.

11.2. PUBLIC ASSISTANCE (PA) PROGRAMS

- **State Assistance:** The *California Disaster Assistance Act* (CDAA)[30] authorizes the state to provide financial assistance for costs incurred as a result of a disaster. CDAA may be implemented in circumstances when local resources are exceeded. In general, the state's share eligible under CDAA is no more than 75 percent of total state eligible costs; however, funding may vary with the type of disaster at the discretion of the Legislature. There are two levels of CDAA assistance:

    - **Director's Concurrence:** Under CDAA, the Cal OES Director may concur with a local government request for state assistance independently of a Governor's Proclamation of a State of Emergency. A Director's Concurrence is limited to eligible permanent repair work. There is generally a 75%-25% cost share between state and local governments.

    - **During a State of Emergency:** When the Governor proclaims a State of Emergency and authorizes CDAA, both emergency and permanent work are eligible for assistance. Again there is generally a 75%-25% cost share between state and local governments. In addition, the State of Emergency allows certain eligible private nonprofit organizations to receive state assistance for providing essential community services during a state declared disaster.

- **Federal Assistance:** Under a declaration of emergency or major disaster, the President may designate certain counties in the affected areas as eligible for the Public Assistance (PA) Grant Program. Federal disaster assistance programs available under the Stafford Act are managed by FEMA.

- **FEMA Public Assistance Grant Program:** FEMA provides State agencies, local governments, tribal governments, and certain private nonprofit entities with federal grants to cover eligible disaster recovery work on a cost-share basis. In accordance with the Stafford Act, the federal cost share is a minimum of 75 percent. The State of California shares the remaining cost with the applicant. Eligible costs must be associated with:

  - Debris removal.
  - Emergency work necessary to save lives, protect public health and safety, and protect property.
  - Restoration of damaged facilities, including buildings, equipment, and infrastructure and also to pre-disaster design, function, and capacity.
  - Implementation of cost-effective hazard mitigation measures during repairs to damaged facilities to reduce the risk of future damage to those facilities.

- **Assistance to Tribal Governments:** In accordance with the National Response Framework, the state coordinates with impacted tribal governments within the State of California.[31] Within California, tribal governments may submit Requests for Public Assistance to Cal OES. Cal OES may review and forward requests to FEMA. FEMA may then work directly with the tribal governments as grantees/recipients.

  The Sandy Recovery Improvement Act of 2013 amended the Stafford Act to provide the option for the Chief Executive of a federally-recognized tribe to make a direct request to the President for a major disaster or emergency declaration, and the tribes may copy the state as a courtesy. The amendment provides that tribes may continue to elect to receive assistance under a state's declaration, provided the President does not make a declaration for the tribe for the same incident.

- **Non-Stafford Act Programs:** The federal government may provide recovery assistance through authorities and programs outside of the Stafford Act. These programs may be implemented in conjunction with Stafford Act programs under a disaster declaration or separately. Depending on the program, the agencies may provide assistance directly to recipients or through another State agency besides Cal OES. Examples include the following agency assistance programs:

- **Federal Highway Administration (FHWA):** Under the Emergency Relief Program, the FHWA provides assistance to the California Department of Transportation (Caltrans) and local governments for damage to roads, bridge, and other facilities on the federal-aid system. In California, Caltrans implements this program on behalf of FHWA. A State of Emergency is required.

- **Natural Resources Conservation Service (NRCS):** Under the Emergency Watershed Protection Program, the NRCS provides assistance to State agencies and local governments for emergency work necessary to protect life, property, and public health and safety in watersheds damaged by a disaster, such as a wildfire or flood. A Presidential declaration is required.

- **U.S. Army Corps of Engineers (USACE):** Under the Rehabilitation and Inspection Program, the USACE provides assistance for flood fighting, emergency repair, and repairs to damaged facilities. USACE provides this assistance for levees and other flood control works that meet pre-disaster criteria for participation in the program. A Presidential declaration is required. Under the Flood Control and Coastal Emergency Act (PL 84-99), the USACE has authority to supplement state and local entities in flood fighting urban and other non-agricultural areas under certain conditions. PL 84-99 also authorizes USACE to provide emergency water support and drought assistance in certain situations and allows for "advance measures" assistance to prevent or reduce flood damage or the imminent threat of unusual flooding.

- **U.S. Department of Housing and Urban Development (HUD):** The HUD Community Development Block Grants may be requested by state, local, and tribal governments for a wide range of recovery purposes. A Presidential declaration is required.

11.3. HAZARD MITIGATION GRANT PROGRAM (HMGP)

Mitigation is the effort to reduce loss of life and property by lessening the impact of disasters. Mitigation is taking action now - before the next disaster - to reduce human and financial consequences later. Effective mitigation requires the comprehension of local risks, undertaking of the hard choices, and investment in long-term community well-being and resilience. Without mitigation actions, safety, financial security, and self-reliance are jeopardized.

As the result of a Presidential Disaster Declaration, FEMA's Hazard Mitigation Grant Program (HMGP) funds plans and projects that reduce the effects of future natural disasters. In California, these funds are administered by the Cal OES Hazard Mitigation Grant Program Unit. Eligible applicants include State agencies, local governments, special districts, and some private nonprofits. To learn more about HMGP, refer to the Hazard Mitigation Assistance Guidance.

11.4. DEBRIS MANAGEMENT

Disasters may create significant quantities of debris that must be removed and disposed of to reduce threats to public health and safety, and allow for the recovery of the community. Debris management poses challenges for state, local, and tribal agencies in terms of available resources for debris management operations, maintaining roads and sidewalks as accessible routes for individuals with disabilities during debris removal activities, appropriate procurement, and management of contractors, reduction of debris volume, disposal and segregation, handling and disposal of household hazardous waste, and other hazardous materials. There are also legal requirements to recycle applicable waste streams, and specific environmental issues that need to be evaluated for compliance issues.

- **Local Responsibility:** Debris management operations are the responsibility of the affected jurisdiction; however, at the request of the state, the federal government may

provide assistance for debris management following a Presidential declaration of emergency or major disaster.

- **State Assistance:** Cal OES provides *Debris Management Technical Assistance* to local governments in the development of pre-disaster debris management plans. When a disaster occurs, Cal OES coordinates requests for state and federal assistance with debris removal, and provides State agencies and local governments with guidance regarding requirements that must be met to ensure eligibility of debris management activities for funding.

    - **Recycling of Debris:** To conserve California's landfill capacity, and in keeping with state policy to maximize all diversion options in order to reduce the amount of solid waste that must be disposed, it is the state's intent that disaster-related debris be recycled or centrally held until it can be processed for maximum recycling. The Integrated Waste Management Disaster Plan provides guidance on this topic.

    - **State Environmental Requirements:** In a federal declaration, FEMA is responsible for ensuring compliance with federal laws, regulation, and Executive Orders (EO) for Stafford Act programs.[32] At the state level, Cal OES ensures the state's management of disaster assistance programs proceeds in accordance with these requirements, as well as with applicable state environmental laws and regulations. Cal OES provides guidance to communities regarding the California Environmental Quality Act (CEQA). Additionally, the Cal OES provides technical assistance to Cal OES Environmental Compliance Program applicants.

- **Federal Assistance:** The following federal debris management assistance programs are coordinated by FEMA:

    - **Technical Assistance:** The federal, state, local, and tribal governments coordinate as a team to identify, evaluate, and provide the most appropriate technical assistance available. FEMA may be requested to task another federal agency to provide specific technical expertise to accomplish debris management tasks.

    - **Direct Federal Assistance:** FEMA, coordinating directly with the FCO, SCO, and the Public Assistance Officer (PAO), may task another federal agency, such as the U.S. Army Corps of Engineers (USACE) to perform debris management activities directly on behalf of the state, local government, or tribe when that entity does not have the resources for the work.

    - **Financial Assistance:** Under the Public Assistance (PA) Program, FEMA provides financial assistance to state, local, and tribal governments for eligible debris management activities completed by those entities. Cal OES is responsible for providing the technical program assistance for those entities eligible to apply for reimbursement assistance.

- **Federal Environmental Requirements:** FEMA and other federal agencies that provide assistance must ensure all actions comply with applicable federal environmental laws, regulations, and EOs. For Stafford Act assistance programs, FEMA ensures compliance with the following, depending on the type and scope of the project:[33]

  - National Environmental Policy Act (NEPA)
  - National Historic Preservation Act (NHPA)
  - Endangered Species Act (ESA)
  - Clean Water Act (CWA)
  - Executive Order 11988, Floodplain Management
  - Executive Order 11990, Protection of Wetlands
  - Executive Order 12898, Environmental Justice

- **Exemptions:** The Stafford Act and its implementing regulations in Title 44 of the Code of Federal Regulations (44 CFR) Part 9 provide FEMA with exclusions that exempt certain actions from the NEPA review process, including debris removal, emergency protective measures, repairs of damaged facilities to pre-disaster condition, and minor mitigation measures. Although a project may be excluded from NEPA review, compliance with other laws, such as the ESA and the NHPA, is still required. Additionally, the project must comply with all applicable state environmental laws and regulations.

12. Continuity Planning

Some emergencies create extraordinary demands on government entities and emergency response agencies, which in extreme circumstances, may stress them to the point that they can no longer operate and provide emergency and essential services. A major emergency could include death or injury of key government officials, partial or complete destruction of established seats of government, and the destruction of public and private records essential to continued operations of government and industry. The inability of government to provide emergency and essential services can cause direct damage to government infrastructures. Life safety and basic human needs may be compromised leading to increased morbidity, mortality, and civil unrest.

- **Planning Authority:** The Constitution of the State of California and the Government Code provide authority for the continuity and preservation of state and local government. The ESA[34] specifically provides for the preservation of government and its services. This is accomplished by planning for succession of officers, designation of standby officers, administration of oaths of office, and continuation of duties of the governing body.

- **State Authority:** The Governor has the legal authority under a State of Emergency to commandeer resources required to address the emergency. State government intervention and control of an emergency exists under the following statutory, regulatory, and administrative powers:

  - The Emergency Services Act, Section 8650
  - Executive Order W-9-91
  - State of California Emergency Plan (SEP)
  - Executive Order S-04-06
  - Cal OES Executive Branch Continuity Plan
  - State Administrative Manual, Management Memo 02-09 (#6)
  - Presidential Policy Directive (PPD) 8 National Preparedness
  - National Security Presidential Directive (NSPD) – 51/ Homeland Security Presidential Directive HSPD - 20 National Continuity Policy
  - Federal Continuity Directive (FCD) 1 and 2
  - FEMA Continuity Guidance Circular (CGC) 1 and 2 Continuity Guidance for Non-Federal Governments
  - FEMA Comprehensive Preparedness Guide (CPG) 101

- **Continuity Plans:** To ensure continuity of government and continuity of operations, the state and its political subdivisions must plan for the preservation, maintenance, or reconstitution of government. When an emergency occurs, continuity planning will support the government's ability to:

  - Carry out constitutional responsibilities.
  - Restore and maintain emergency operations.
  - Restore and maintain public health and safety.
  - Restore and maintain vital services and operations.

- Protect California's economy.
- Preserve the environment.

- **Planning Elements:** To ensure continuity the following elements must be addressed by all levels of government (state, federal, local, and tribal) and work in partnership with the private sector:

  - Involvement of key leadership in all phases of continuity planning.
  - Identification and prioritization of essential functions.
  - Establishment, promulgation, and maintenance of orders of succession.
  - Pre-identification and updates, as necessary, of delegations of authority.
  - Identification, establishment, and maintenance of continuity facilities.
  - Identification, establishment, and maintenance of critical business, information technology, and communications systems.
  - Establishment and maintenance of a system of essential records management.
  - Establishment of a program that identifies and supports human resources, including key personnel and support staff.
  - Establishment of a process for devolution of control and direction.
  - Establishment of a process for reconstitution and recovery.
  - Development of an effective multi-year testing, training, and exercise program to support continuity efforts.
  - Establishment local, regional, state, federal, and tribal plan integration for a more deliberate and comprehensive response and recovery system that will ensure unity of effort and community resilience.

The State Essential Functions (SEF) are the foundation for continuity programs at all levels of government in California. Specifically, SEF represent the overarching responsibilities of state government to lead and sustain vital operations and services during a crisis. Therefore, the uninterrupted continuation of the SEFs shall be the primary focus of government leadership during and in the aftermath of an emergency that adversely affects the performance of government functions.

There are eleven cross-government SEFs, vetted by the Governor's Emergency Operations Executive Council in 2006, that must be continued under all circumstances to enable the Executive Branch to carry out its critical government functions and services. The SEFs are categories of functions performed by one or more agencies and are the critical state government functions that save lives; protect the safety and security of the public; and protect property, critical infrastructure, and the environment.

Exhibit 12-1 – State Continuity Essential Functions

State Essential Functions	LEAD Agency
SEF 1 - Government Leadership (GL) – Provides visible and effective leadership for the people of California while restoring and maintaining critical state essential functions.	**Governor** **Secretary of State** (Lines of Succession Validated)
SEF 2 - Public Safety (PS) – Maintains public safety and security for the people of California and decreases their vulnerability to threats and hazards.	**CalSTA**
SEF 3 - Emergency Management (EM) – Protects and preserves the lives, property, and environment for the people of California from the effects of natural, technological, or human-caused disasters.	**Cal OES**
SEF 4 - Medical/Health (MH) – Ensures the continuity and strength of California's medical, public health, mental-health organizations, and systems. Supports the health and well-being of the people of California.	**CHHS**
SEF 5 - Social Services and Education (SSE) – Ensures the continuation of essential social services for the people of California, including services for those with disabilities, access and functional needs populations, and victims of crime. Supports the continued operation of California's educational systems (both public and private) at all levels of government.	**CHHS**
SEF 6 - Critical Infrastructure (CI) – Preserves California's infrastructure, including transportation systems, energy systems, utilities, dams, and other critical components. Supports and sustains the personnel required to operate and maintain the physical infrastructure.	**CalSTA/CNRA** **(CUEA)** **(BCSHA)**
SEF 7 - Financial, Economic, and Business (FEB) – Ensures the financial and economic security of California's business, financial systems/institutions, and its citizens. Preserves and supports California's labor/workforce. Protects and preserves California's tax and revenue collection capabilities to ensure continuity of California's government.	**GOA/DOF/** **Dept. of Tech** **(BCSHA)**
SEF 8 - Information Technology/Communications (ITC) – Protects, maintains, and preserves California's communications and technological capabilities. Ensures continued interoperability of California's communications systems.	**GOA** **Dept. of Tech** **Chief ISO**
SEF 9 - Agriculture (AG) – Promotes and preserves the livelihood of California's agricultural community and all its members. Ensures continuation of existing agriculture training and education programs. Ensures California's agriculture remains strong and competitive.	**CDFA**
SEF 10 - Environment (EN) – Protects, preserves, and restores California's natural environment, ecosystems, resources, and natural habitats, and the impacts of natural disasters or other events.	**CalEPA**
SEF 11 - Information Collaboration (IC) – Encourages and enhances information sharing and collaboration between local/state/federal and private sector to more effectively respond to and recover from all threats and protect the citizens of California.	**Cal OES**

- **State Assistance:** While not likely, if local government becomes partially or entirely disabled in an emergency, significant state government intervention may be required to assist local government in the restoration of emergency operations and essential services.

Significant state intervention presumes local government lacks the resources to restore any overwhelmed or devastated portion of its structure. At times when significant state government intervention is warranted, the state will proactively deploy resources and coordinate with other local jurisdictions and the federal government. State government intervention may be justified under the following circumstances:

- Local government elected officials are not able to operate and provide direction to their local government agencies.
- The local emergency management system is damaged or impaired and is not sufficiently functioning.
- The local government's Continuity of Government (COG) plan is substantially disrupted or halted due to the overwhelming consequences of a catastrophic emergency.

- **Private Sector:** In addition to public sector continuity planning, the private sector should develop similar plans to ensure California businesses and economic institutions continue to function following an emergency.

Additional Continuity Planning Guidance can be found on the Cal OES website.

13. California Emergency Support Functions

The 2009 State of California Emergency Plan established the California Emergency Support Functions (CA-ESF). The CA-ESFs are 18 primary disciplines or activities essential to addressing the emergency management needs of communities in all phases of emergency management. The CA-ESFs are designed to bring together discipline-specific stakeholders at all levels of government to collaborate and function within the four phases of emergency management.

At the State level, the CA-ESFs consist of an alliance of State agencies, departments, and other stakeholders with similar functional responsibilities. This grouping will allow each CA-ESF to collaboratively mitigate, prepare for, cohesively respond to, and effectively recover from an emergency.

Local governments and Operational Areas (OA) are not required to implement the CA-ESF concept unless they choose to do so. Instead, they should organize consistent with local resources and established SEMS regulations and guidelines.

13.1. EMERGENCY SUPPORT FUNCTION LEAD AGENCY AND DESCRIPTIONS

Each CA-ESF represents an alliance of stakeholders who possess common interests and share a level of responsibility for emergency management. The CA-ESFs bring together State agencies, departments, and others to collaboratively prepare for, cohesively respond to, and effectively recover from an emergency.

A single State agency is assigned to lead each CA-ESF based on its authorities, resources, and capabilities. Each CA-ESF member agency is responsible to assist in coordinating the state's response to emergencies, including provision of mutual aid and the allocation of essential supplies and resources.

Exhibit 13-1 – California Emergency Support Functions lists and defines each California Emergency Support Function, identifies the lead State agency and the federal Emergency Support Functions (ESF) with the closest similarities.

Exhibit 13-1 – California Emergency Support Functions

CA-ESF Title	Definition	Lead Agency	Federal ESF
ESF 1 Transportation	Assists in the management of transportation systems and infrastructure during domestic threats or in response to incidents.	California Transportation Agency	ESF #1 – Transportation
ESF 2 Communications	Provide resources, support, and restoration of government emergency telecommunications, including voice and data.	California Governor's Office of Emergency Services	ESF #2 – Communications
ESF 3 Construction and Engineering	Organizes the capabilities and resources of the State government to facilitate the delivery of services, technical assistance, engineering expertise, construction management, and other support to local jurisdictions.	California Government Operations Agency	ESF #3 – Public Works and Engineering
ESF 4 Fire and Rescue	Monitors the status of fire mutual aid activities. Coordinates support activities related to the detection and suppression of urban, rural, and wildland fires and emergency incident scene rescue activities and provide personnel, equipment, and supplies to support local jurisdictions.	California Governor's Office of Emergency Services	ESF #4 – Firefighting
ESF 5 Management	Coordinates and resolves issues among the CA-ESFs in the four phases of emergency management to ensure consistency in the development and maintenance of the SEP annexes. During emergencies, serves in an advisory capacity to the EOC Director.	California Governor's Office of Emergency Services	ESF #5 – Emergency Management
ESF 6 Care and Shelter	Coordinates actions to assist responsible jurisdictions to meet the needs of victims displaced during an incident including food assistance, clothing, non-medical care and sheltering, family reunification, and victim recovery.	California Health and Human Services Agency	ESF #6 – Mass Care, Emergency Assistance, Housing and Human Services
ESF 7 Resources	Coordinates plans and activities to locate, procure, and pre-position resources to support emergency operations.	California Government Operations Agency	ESF #7 – Logistics Management and Resource Support

CA-ESF Title	Definition	Lead Agency	Federal ESF
ESF 8 Public Health and Medical	Coordinates Public Health, Environmental Health, and Emergency Medical Services activities statewide in support of local jurisdiction resource needs for preparedness, response, recovery, and mitigation from emergencies and disasters.	California Health and Human Services Agency	ESF #8 – Public Health and Medical Services
ESF 9 Search and Rescue	This Emergency Support Function was merged into CA-ESF 4 Fire and Rescue for Urban Search and Rescue requests and CA-ESF 13 Law Enforcement for Wilderness Search and Rescue.	California Governor's Office of Emergency Services	ESF #9 – Search and Rescue
ESF 10 Hazardous Materials	Coordinates State resources and supports the responsible jurisdictions to prepare for, prevent, minimize, assess, mitigate, respond to, and recover from a threat to the public or environment by actual or potential hazardous materials releases, including oil spills.	California Environmental Protection Agency	ESF #10 – Oil and Hazardous Materials Response
ESF 11 Food and Agriculture	Supports the responsible jurisdiction and coordinates activities during and immediately following a disaster, impacting the agriculture and food industry, and supports the recovery of impacted industries and resources post disaster.	California Department of Food and Agriculture	ESF #11 – Agriculture and Natural Resources
ESF 12 Utilities	Provide resources and support to responsible jurisdictions and in partnership with the private sector to restore gas, electric, water, wastewater and telecommunications.	California Natural Resources Agency	ESF #12 – Energy
ESF 13 Law Enforcement	Coordinates State law enforcement personnel and equipment to support responsible law enforcement agencies, coroner activities, Wilderness Search and Rescue, and public safety in accordance with Law Enforcement and Coroner's Mutual Aid Plans.	California Governor's Office of Emergency Services	ESF #13 – Public Safety and Security
ESF 14 Recovery	Supports and enables economic recovery of communities and California from the long-term consequences of extraordinary emergencies and disasters.	California Governor's Office of Emergency Services	ESF #14 – Long-Term Community Recovery
ESF 15 Public Information	Supports the accurate, coordinated, timely, and accessible information to affected audiences, including governments, media, the private sector, and the local populace, including the special needs population.	California Governor's Office of Emergency Services	ESF #15 – External Affairs

CA-ESF Title	Definition	Lead Agency	Federal ESF
ESF 16 Evacuation	This Emergency Support Function was merged into CA-ESF 13 Law Enforcement in August 2013.	N/A	N/A
ESF 17 Volunteer and Donations Management	Supports responsible jurisdictions in ensuring the most efficient and effective use of affiliated and unaffiliated volunteers and organizations and monetary and in-kind donated resources to support incidents requiring a State response.	California Volunteers	N/A
ESF 18 Cybersecurity	Coordinates resources to prepare, mitigate, respond to, and recover from a significant cybersecurity event.	California Governor's Office of Emergency Services	N/A

Similarities between the California Emergency Support Functions and the Federal Emergency Support Functions (ESF) exist. The purpose of the Federal ESFs is to provide federally-controlled resources to state and federal agencies during the response and recovery phases of a disaster. While similar to the Federal ESFs, the CA-ESFs are established to augment state operations during all four phases of emergency management.

13.2. CALIFORNIA EMERGENCY SUPPORT FUNCTION DEVELOPMENT

Development of the CA-ESFs requires a coordinated approach between all members. The lead State agency, with support from Cal OES, brings together supporting State agencies, departments, and stakeholders from the public and private sector to develop and maintain a functional annex to the State of California Emergency Plan. The functional annex contains the concept of operations with protocols and procedures for each CA-ESF.

To develop the Functional Annex each CA-ESF will develop a working group with five primary objectives:

1. Develop and maintain a functional annex to the State of California Emergency Plan.
2. Identify and engage stakeholders in the CA-ESF.
3. Identify capabilities and resources of each member to create and maintain resource directories.
4. Respond with, train, and exercise the plans and procedures described in the functional annex.
5. Develop after action reports and implement the appropriate corrective actions after exercises or emergency incidents.

13.3. EMERGENCY MANAGEMENT ACTIVITIES

The California Emergency Support Functions were designed to bring together discipline-specific stakeholders at all levels of government to collaborate and function within the four phases of emergency management.

Mitigation

- Identify stakeholders and engage them in the development and maintenance of the CA-ESF.
- Complete a vulnerability assessment and prioritize actions to reduce vulnerabilities within the scope of the CA-ESF.
- Collaborate to pool CA-ESF resources to prevent hazards and reduce vulnerability (leveraging funding, resources, and people).
- Develop strategies and processes to prevent or reduce the impact of events and reduce the need for response activities.
- Support the California State Enhanced Multi-Hazard Mitigation Plan (SHMP).

Preparedness

- Update a CA-ESF Annex to the State Emergency Plan containing a charter, concept of operations, plans, and supporting agreements.
- Establish decision-making and communication processes for the CA-ESF.
- Identify stakeholder roles, responsibilities, and statutory authorities.
- Initiate and oversee pre-emergency planning and coordination activities.
- Conduct resource inventories, categorize resources, establish agreements for acquiring needed resources, manage information systems, and develop processes for mobilizing and demobilizing resources with the CA-ESF stakeholders.
- Plan for short- and long-term emergency management and recovery operations.
- Integrate After Action Reports (AAR) and Corrective Action Planning (CAP) into the CA-ESF Annexes and exercises.
- Conduct regular CA-ESF meetings and training events.
- Support coordination for incident prioritization, critical resource allocation, integration of communications systems, and information coordination.

Response

- Coordinate CA-ESF support when activated during a response.
- Provide subject matter experts to support emergency response activities as provided by statutory authority at the appropriate level (Field, Local, Operational Area, REOC, or SOC), as requested by the Governor or Cal OES, and as outlined in the CA-ESF Annex.
- Request participation from support agencies.
- Coordinate contracts and procure goods and services as needed.
- Develop AARs and take corrective action.

Recovery

- Support recovery activities with roles and responsibilities of CA-ESF members.
- Work with other CA-ESFs to organize rapid needs assessment teams to prevent duplication of efforts.
- Support efficient activation and sufficient staffing of LACs.

13.4. CALIFORNIA EMERGENCY SUPPORT FUNCTIONS DURING EOC ACTIVATION

The CA-ESFs are a source for discipline-specific and subject matter expertise that can be utilized during an emergency response at any level of SEMS. When a CA-ESF is employed during EOC activation, it provides the greatest possible access to stakeholder resources and capabilities regardless of which organization has those resources.

- **Designated Coordinator:** Prior to an emergency, the CA-ESF Working Group should designate a coordinator, and alternates, that can be called upon to support the SOC or REOCs when activated. CA-ESF coordinators are identified on the basis of subject matter expertise regarding specific disciplines, authorities, and resources, and will have access to the resources and capabilities of the CA-ESF.

- **Expertise, Resources, and Capabilities:** The CA-ESF coordinators can be tapped to provide discipline-specific subject matter expertise as necessary for all activities within the EOC organization. Some of the typical activities of the CA-ESF coordinators would provide:

  - Recommendations on the appropriate use of discipline-specific resources
  - Expertise regarding the procedures, processes, and methods for obtaining resources
  - Agency-specific aspects relating to resource acquisition
  - Representation to established MAC Groups
  - Acquire, maintain, and process discipline-specific intelligence and information
  - Guidance on processing of resources to EOC management functions
  - Coordination with CA-ESFs within other EOC levels

- **CA-ESF Notification and Mobilization:** Upon activation of the SOC or REOC, each functional coordinator assesses the need for one or more CA-ESFs to support their emergency response and recovery activities. Each CA-ESF mobilizes according to its functional annex. When planning for mobilization, each working group should consider space requirements. CA-ESFs are typically assigned to the Operations Section. During full EOC activation, space usage will be at a premium, so alternate mobilization plans are recommended.

- **CA-ESF Initial Response Actions:** The items listed below constitute the initial response actions to be taken by each activated CA-ESF.

- Establish formal activation time and initial staffing pattern for representation in the EOC.
- Activate communications plans and establish and maintain communications between State agency DOCs, the SOC, and REOC.
- Based on the governance structure documented in the CA-ESF Annex, notify and activate support State agencies as required for the threat or emergency.
- Begin to immediately acquire intelligence concerning the CA-ESF activities to support the emergency.
- Deploy staff to appropriate levels of the California emergency management system (as determined by statutory authority and response roles and in coordination with the SOC and REOC) and provide technical assistance as needed.

- **Coordination with Federal Emergency Support Functions:** The federal government organizes much of its resources and capabilities under 15 Emergency Support Functions (ESF) as described in the National Response Framework (NRF). When the federal government deploys its ESFs to assist in an emergency, it provides the greatest possible access to federal department and agency resources, regardless of which organization has those resources. ESF coordinators and primary agencies are identified on the basis of authorities and resources. Support agencies are assigned based on the availability of resources in a given functional area. Each ESF aligns categories of resources and provides strategic objectives for their use. The ESF will utilize standardized resource management concepts such as typing, inventorying, and tracking to facilitate the dispatch, deployment, and recovery of resources before, during, and after an incident.

The State agency roles and responsibilities are organized according the CA-ESF and displayed on ***Exhibit 13-2 – State Agency Responsibilities Matrix.***

Exhibit 13-2 – State Agency Responsibilities Matrix

The matrix below summarizes State agency and department roles as either Primary or Support in relation to each of the California Emergency Support Functions (CA-ESF).

L= Lead S= Support

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
Business, Consumer Services and Housing Agency					S		S							S		
Department of Alcoholic Beverage Control					S	S	S					S		S		
Department of Business Oversight					S		S					S	S	S		
Department of Consumer Affairs			S		S		S					S	S	S		
Department of Fair Employment and Housing					S		S							S		
Department of Housing and Community Development			S		S		S						S	S	S	
Housing Finance Agency			S		S		S							S		
Seismic Safety Commission			S		S		S				S		S	S		
Environmental Protection Agency					S		S	S	L					S		
Air Resources Control Board					S		S	S	S					S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
Department of Pesticide Regulation					S		S	S	S					S		
Department of Resources Recycling and Recovery			S		S		S				S			S		
Department of Toxic Substances Control			S	S	S		S	S	S		S	S		S		
Office of Environmental Health Hazard Assessment					S		S	S	S	S				S		
State Water Resources Control Board					S		S	S	S		S	S		S		
Government Operations Agency			L		S		L							S		
Department of General Services			S		S	S	S	S	S					S		
Department of Human Resources					S		S							S		
Department of Technology		S			S		S						S	S		S
Franchise Tax Board					S		S					S	S	S		
Office of Administrative Law					S		S							S		
Public Employees Retirement System					S		S							S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
State Personnel Board					S		S							S		
Victims Compensation Board					S		S					S	S	S		
Health and Human Services Agency					S	L	S	L						S		
Department of Aging					S	S	S					S		S		
Department of Child Support Services					S		S							S		
Department of Community Services and Development					S	S	S						S	S	S	
Department of Developmental Services					S	S	S	S						S		
Department of Health Care Services					S	S	S	S				S		S	S	
Department of Managed Health Care					S		S	S						S		
Department of Public Health			S	S	S	S	S	S	S	S	S	S	S	S	S	
Department of Rehabilitation					S	S	S	S						S		
Department of Social Services					S	S	S	S		S		S	S	S	S	
Department of State Hospitals					S		S	S						S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
Emergency Medical Services Authority	S	S		S	S	S	S	S	S	S			S	S	S	
Office of Statewide Health Planning and Development		S	S		S		S	S					S	S		
Office of System Integration					S	S	S	S						S		S
Natural Resources Agency					S		S				L			S		
Coastal Commission					S		S						S	S		
Conservation Corps	S		S	S	S	S	S	S	S	S		S		S		
Energy Commission					S		S		S		S			S		
State Lands Commission					S		S				S		S	S		
Department of Conservation					S		S		S		S			S		
Department of Fish and Wildlife					S		S		S			S		S		
Department of Forestry and Fire Protection		S	S	S	S	S	S	S	S		S	S		S		
Department of Parks and Recreation		S	S	S	S	S	S		S		S	S		S	S	S
Department of Water Resources		S	S	S	S		S				S	S		S		
San Francisco Bay Conservation and Development Commission			S		S		S		S					S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
Department of Corrections and Rehabilitation				S	S	S	S	S	S			S		S		
Department of Education	S				S	S	S	S					S	S		
Department of Finance					S		S						S	S		
Department of Food and Agriculture					S	S	S	S		L		S	S	S		
Department of Insurance			S		S		S					S	S	S		
Department of Justice					S		S					S		S		
Department of Veterans Affairs					S	S	S	S					S	S		
Fair Political Practices Commission					S		S							S		
Governor's Office of Business and Economic Development					S		S						S	S	S	
Governor's Office of Emergency Services	S	L	S	L	L	S	S	S	S	S	S	L	L	L	S	L
Governor's Office of Planning and Research					S		S						S	S		
California Volunteers			S		S	S	S						S	S	L	
Labor and Workforce Development Agency					S		S							S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
Agricultural Labor Relations Board					S		S							S		
Department of Industrial Relations			S		S		S	S	S					S		
Employment Development Department					S		S			S		S	S	S		
Lottery Commission					S		S							S		
California National Guard	S	S	S	S	S	S	S	S	S			S		S		S
Office of the Inspector General					S		S					S		S		
Public Utilities Commission	S				S		S				S			S		
State Board of Equalization					S	S	S							S		
Transportation Agency	L				S		S							S		
California Highway Patrol	S				S		S	S	S			S		S		S
Department of Motor Vehicles					S		S							S		
Department of Transportation	S		S	S	S		S		S					S		
Board of Governors California Community Colleges					S	S	S	S	S					S		
Trustees of California State Universities					S		S							S		

AGENCIES AND DEPARTMENTS	CA-ESF 1 Transportation	CA-ESF 2 Communications	CA-ESF 3 Const. & Engineering	CA-ESF 4 Fire And Rescue	CA-ESF 5 Management	CA-ESF 6 Care & Shelter	CA-ESF 7 Resources	CA-ESF 8 Public Health & Medical	CA-ESF 10 Hazardous Materials	CA-ESF 11 Food & Agriculture	CA-ESF 12 Utilities	CA-ESF 13 Law Enforcement	CA-ESF 14 Recovery	CA-ESF 15 Public Information	CA-ESF 17 Vol. & Donations Mgt.	CA-ESF 18 Cybersecurity
University System				S	S		S					S		S		

14. State Roles and Responsibilities

During times of emergency, the Governor may call upon the services, resources, and capabilities of over 125 State agencies, departments, offices, boards, commissions, councils, and authorities.

Below are the key agencies and departments that have primary or support roles in an emergency. State agencies not specifically listed in the plan may be called upon to carry out assigned activities necessary to mitigate the effects of an emergency in accordance with the California Emergency Services Act (ESA).

14.1. BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY (BCSHA)

The Business, Consumer Services and Housing Agency (BCSHA) consists of nine departments, boards, and commissions. During an emergency, the agency can call upon its personnel and resources to address issues related to affordable housing, financial services, public safety, and seismic policies.

14.1.1. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)

- **Care and Shelter:** Assists with food/goods distribution to persons displaced by an emergency. Can assist with transporting affected persons to and/or from designated shelters.
- **Resources:** Peace officers, non-sworn personnel, public safety related equipment, vehicles, and miscellaneous office related supplies.
- **Law Enforcement:** Provides sworn peace officers anywhere in the state to support local, state, and federal law enforcement agencies with many facets of enforcement activity and disaster/emergency response including but not limited to: general public safety-related enforcement, civil unrest, prisoner control and detention, intelligence gathering, building/facility security, traffic control, search and rescue.
- **Public Information:** Provides a Public Information Officer to assist with information gathering and dissemination.

14.1.2. DEPARTMENT OF BUSINESS OVERSIGHT (DBO)

- **Law Enforcement:** Provides special investigators with peace officer status to support law enforcement operations.
- **Recovery:** Offers services to financial institutions impacted by the emergency. Provides information to the public regarding the safety and soundness of the financial institutions affected by the emergency. Works with financial institutions to request flexible due dates for those affected by disasters.

14.1.3.DEPARTMENT OF CONSUMER AFFAIRS (DCA)

- **Construction and Engineering:** Provides guidance to the public on various items, such as contractors and engineers, through the various licensing boards. Bureau of Real Estate Appraisers provides licensed appraisers.

- **Resources:** Promotes and support the Boards and Bureaus to develop a system for licensees to volunteer their professional services to enhance the state response and recovery resources in a disaster. Support and coordinate efforts with:
  - Boards and Bureaus to reduce the timeframe and procedural steps for verification and issuance of licenses.
  - Medical Board of California to relicense qualified physicians and surgeons under the Health Care Professional Disaster Response Act, Business and Professions Code section 920, et seq., in times of national or state disasters.
  - Health care Board and Bureaus that allow for the waiver of licensure requirements to ensure the continuity of patient care during federal, state, or local emergencies.

- **Law Enforcement:** Provides investigators that have peace officer powers from the Boards and the Division of Investigations to augment the existing law enforcement response.

- **Recovery:** Takes part in the Hazard Mitigation Planning Process. Bureau of Real Estate assists in economic stabilization. Provides temporary housing information and locations. Issues and implements State policies and guidelines for rent and real estate price stabilization, and consults about time-phased resumption of economic stabilization controls by the federal government. Provides staff to post-disaster assistance centers. Bureau of Real Estate works with the Department of Housing and Community Development (HCD) on temporary housing issues.

- **Public Information:** Provides informational publications to the public to support recovery operations. Activate call center to provide public access to recovery information. Provides guidance to public through various licensing boards. Provides staff to post-disaster assistance centers.

14.1.4.DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

- **Construction and Engineering:** Assigns staff to provide inspection of housing facilities for safety. Assists with the reconstruction of manufactured housing facilities and assistance with housing applications. Identifies necessary changes in building codes to mitigate the effects of disasters. HCD performs these activities in areas of the state where inspections are under HCD jurisdiction, or at the request of local emergency officials in areas where HCD is not the enforcement agency.

- **Resources:** All State agencies will support the California Resources Emergency Function and will provide, where appropriate, facilities, services, personnel, equipment, and material for all phases of emergency management.

- **Recovery:** Helps coordinate and fund sites and facilities for temporary emergency housing. Oversees and employs expedited procedures for the discharge of program funds to meet emergency conditions in low-income communities through mandated programs. Allocates and expedites emergency funding made available through federal housing, and community-development programs. Provides lists of the state-owned Office of Migrant Services facilities available for emergency short-term housing and local housing and community based organizations that can provide additional housing facilities and outreach. Can provide policy and program guidance on housing issues and housing financing options and act as liaison to local housing authorities and community based housing organizations. Provides lists of departmental facilities available for emergency short-and long-term housing and community-based organizations that can provide outreach.

- **Volunteer and Donations Management:** Provides information lists related to community-based organizations that can provide outreach and safety-net services.

14.1.5.HOUSING FINANCE AGENCY (CAL HFA)

- **Construction and Engineering:** Provides building inspectors during damage assessment period.

14.1.6.SEISMIC SAFETY COMMISSION

- **Construction and Engineering:** Under the Existing Buildings and New Buildings Initiatives of the State's California Earthquake Loss Reduction Plan, the Commission provides expertise in public information and seismic policy analysis.

- **Management:** Under the State's California Earthquake Loss Reduction Plan the Commission provides expertise in public information and seismic policy analysis.

- **Utilities:** Under the Utilities and Transportation Initiative of the State's California Earthquake Loss Reduction Plan, the Commission provides expertise in public information and seismic policy analysis.

- **Recovery:** Under the Recovery Initiative of the State's California Earthquake Loss Reduction Plan, the Commission provides expertise in public information and seismic policy analysis.

- **Public Information:** Under the Emergency Response Initiative of the State's California Earthquake Loss Reduction Plan, the Commission provides expertise in public information and seismic policy analysis.

14.2. CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL EPA)

California Emergency Support Functions: Cal EPA serves as the lead agency for coordinating emergency activities related to hazardous materials. The agency may assign primary and support roles to those departments within the agency that have the authorities, capabilities, and resources necessary to meet emergency needs.

- **Management:** Serves as the first point of contact for Cal EPA's programs in the event of an emergency, advises if an emergency action will create or aggravate threats to human health and the environment, and provides environmental justice leadership.

- **Public Health and Medical:** Ensures consistent, effective, and coordinated compliance and enforcement actions to protect public health and the environment are taken. Provides fact sheets, notices, and other materials as necessary to advise and support members of the public returning to impacted areas.

- **Hazardous Materials:** Maintains contact lists and oversees the unified hazardous waste and hazardous materials management regulatory program administered by Certified Unified Program Agencies (CUPA).

- **Public Information:** Provides public information assistance through the External Affairs Office. Provides fact sheets, notices, and other materials as necessary to advise and support members of the public returning to impacted areas.

14.2.1. AIR RESOURCES BOARD (ARB)

- **Resources:** Provides and maintains portable air monitoring equipment and technical resources to evaluate air quality impacts of major fires, hydrocarbon, and chemical releases.

- **Public Health and Medical:** Monitors air quality in real-time or near real-time and creates summaries related to air quality and the impact to the public.

- **Hazardous Materials:** During unplanned releases, provides air quality and meteorological data and supports air pollution emergency planning and response for public health agencies and incident command. Provides technical resources to assess air quality impacts, characterize air contaminants, and identifies and reports consequences of air incidents. Supports air modeling and forecasting to simulate pollutant movement and dispersion.

- **Public Information:** Provides air quality data summaries and associated consequences to incident command staff and health officers. Coordinates messaging with health officials and Incident Command public affairs liaisons.

14.2.2.DEPARTMENT OF PESTICIDE REGULATION (DPR)

- **Resources:** Provides staff and data-related pesticide use reporting, sales, air monitoring, ground and surface water monitoring, food safety sampling analysis, and registered pesticides.

- **Public Health and Medical:** Provides human and ecological toxicological data related to pesticide exposure. Coordinates with the California Department of Public Health and local health agencies on pesticide issues, incidents, and related events.

- **Hazardous Materials:** Provides technical and investigative expertise for pesticide incidents and related events. Coordinates with regulatory agencies including County Agricultural Commissioners and U.S. Environmental Protection Agency Region 9. Continuously evaluates pesticides for human health and environmental concerns. Recommends action and mitigation of pesticide incidents or events. Conducts sampling of produce for pesticide residues to ensure safe levels. Provides legal support and related enforcement tools to protect human health, the environment, and food commodities.

- **Public Information:** Provides public and occupational health and safety information on pesticide issues, incidents, and related events.

14.2.3. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

- **Construction and Engineering:** Provides technical assistance from registered professionals for structural and landslide inspections and waste-management facilities. Provides technical assistance to local enforcement agencies on waste sites and recycling of debris. Assists in the development of emergency waivers on solid waste standards. Provides technical staff to inspect affected landfills and environmental control systems damaged by disasters. Performs emergency inspections of solid waste facilities. Provides liaison assistance to local governments for the collection of household hazardous waste and contaminated material from biological disasters. Provides technical assistance with waste fires and debris. Oversees the Local Enforcement Agency (LEA) administration of waivers from landfill standards. Maintains lists of waste and recycling facilities for local government, environmental health departments, landfill and tire operators, and private business contacts. Provides technical assistance for the collection and proper handling of solid wastes or in the event of a disaster. Provides personnel and communicates with local governments, in coordination with Cal OES, regarding solid waste management and disposal reporting requirements.

- **Utilities:** Provides technical assistance and recommendations for repair of solid waste facilities. Performs inspections of waste management facilities and provides technical assistance with proper disposal of contaminated materials, and conduct inspections of waste facilities.

14.2.4.DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)

- **Construction and Engineering:** Provides technical engineering and geology expertise through registered professionals**.**

- **Fire and Rescue:** Provides technical assistance to fire response agencies and advisory information if source of fire produces hazardous plumes or run-off.

- **Resources:** Provides emergency response staff to sample, assess, and mitigate release of hazardous materials. Provides contractors to mitigate the release of hazardous materials throughout the state when funding criteria are met.

- **Public Health and Medical:** In coordination with the California Department of Public Health (CDPH), provides limited technical support for the assessment, containment, and mitigation of radiological hazards. Provides environmental toxicologists for technical issues and risk communication.

- **Hazardous Materials:** Provides technical expertise for hazardous materials incidents. Coordinates with law enforcement and local governments in the event of a hazardous materials release, including assessment, containment, mitigation, and removal. Evaluates requests for financial assistance for off-highway emergency response incidents and clandestine drug lab removals, and provides emergency response personnel and contractor support to stabilize and/or mitigate when funding criteria are met. Provides or facilitates access to technical advice regarding the safe handling or suitable disposal of hazardous materials.

- **Utilities:** Evaluates design and retrofit options for waste storage facilities.

- **Law Enforcement:** Provides investigators with peace officer authority and provides staff to assist investigations involving hazardous materials releases or hazardous waste violations.

14.2.5. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA)

- **Public Health and Medical:** Provides public health recommendations, information, and technical resources, such as toxicologists and epidemiologists, to assist in determining health impacts after chemical releases.

- **Hazardous Materials:** Assists in determining health effects and characterizes risk to public health and the environment by providing toxicological information, risk assessment, and public health recommendations from toxic chemical releases. Provides personnel, such as toxicologists and epidemiologists, to assist incident command, local health (public and environmental) agencies, and other health professionals. Develops and maintains library and other technical reference resources of chemical, health, toxicology, and other scientific information. Provides technical resources, such as toxicologists and epidemiologists to assist

in determining environmental risk/threats, consultation on environmental sampling, information and health impacts of breakdown or reaction products, residual risks associated with remediation, estimating exposure, and identifying pathways of exposure. Assists with decisions about sheltering-in-place, evacuation, and re-entry after hazardous material releases.

- **Food and Agriculture:** Provides public health recommendations, information, and technical resources, such as toxicologists and epidemiologists, to assist in determining health impacts after emergencies that may impact agricultural, animals, or food. Assists with disposal and decontamination recommendations for food and animal carcasses after large-scale emergencies impacting these sectors.

- **Public Information:** Provides health information to incident command and Public Information Officers (PIO) and helps develop public health messages during and after chemical releases.

14.2.6.STATE WATER RESOURCES CONTROL BOARD (SWRCB)

- **Management:** May issue administrative orders requiring investigation or cleanup and abatement to responsible parties or suspected responsible parties. Provides subject matter experts for response or EOC planning.

- **Public Health and Medical:** Provides technical environmental staff to evaluate potential impact to water quality from emergencies. Assists public water systems in the provision of clean, safe, and wholesome potable water, reliably and adequately. Assists the California Department of Public Health (CDPH) in advising water users of an emergency situation and provides critical information on water uses in areas that might be affected by hazardous releases. May require the issuance by the drinking water systems of unsafe water alerts such as boil water notice, do not drink notice, and do not use notice to protect public health. May issue citations and compliance orders as needed to enjoin public water systems to correct situations that are contrary to safe drinking water standards and practices. Communicates, coordinates and collaborates with partners and stakeholders (e.g., local HazMat, USEPA, Cal OES, CALEPA, Civil Support Teams, DHS, FEMA, CalWARN, others). Deploys the Emergency Water Quality Sampling Kit, and with the CDPH Drinking Water and Radiation Laboratory (DWRL) works at identifying the unknown contaminant in a credible incident involving the intentional contamination of a drinking water facility with an unknown contaminant. Conducts inspections and provides guidance to public water systems in the aftermath of emergencies.

- **Hazardous Materials:** Provides lists of hazardous waste disposal sites, technical personnel, and advice related to the consequences of a hazardous materials incident on water resources, conducts water sampling, monitoring, analyses, and assessment activities, and guidance on options concerning diversion, containment, treatment, and temporary storage of hazardous waste. Provides environmental technical staff with expertise concerning the recovery measures taken after a hazardous material incident on water resources and drinking water. Provides water information, sampling, water technology/equipment, and advice to the public

during an emergency and/or a hazardous materials incident related to water and drinking water.

- **Utilities:** Provides technical resources with expertise in the construction, operations, and inspection of sewage treatment plants and underground storage tanks, and the integrity of landfill slopes and surface impoundments. Provides immediate, on-site technical support to assess possible effect of the incident on water quality. Maintains information on environmental water quality and water users. May address sewage collection, treatment, and disposal.

- **Law Enforcement:** Work with local governments, state, and federal agencies to investigate circumstances involving threats of impairment to water and drinking water quality. Provides support for enforcement proceedings by local or State agencies, and initiates enforcement for violations of the Water Code and the Safe Drinking Water Act portions of the Health and Safety Code.

14.3. GOVERNMENT OPERATIONS AGENCY (GOVOPS)

The Government Operations Agency (GovOps) handles procurement of state goods and services, the management and development of state real estate, collecting state taxes, hiring of state employees, providing information technology services, and adopting state building standards. The Secretary for Government Operations Agency is the Chair of the California Building Standards Commission.

California Emergency Support Functions: GovOps serves as the lead agency for coordinating emergency activities related to construction and engineering, and resources. GovOps may assign primary and support roles to those departments within the agency that have the authorities, capabilities, and resources necessary to meet emergency needs.

14.3.1. DEPARTMENT OF GENERAL SERVICES (DGS)

- **Construction and Engineering:** Coordinate with professional engineering organizations and Cal OES in recruiting, orienting, and training volunteer structural engineers. Provides engineering and technical assistance to Cal OES, assesses building damage, prepares survey reports, clears debris from state-owned buildings, estimates and conducts building repair and coordinates/inspects new buildings.

- **Management:** Supports Cal OES in providing state building status assessments.

- **Care and Shelter:** Classifies state property for possible temporary emergency housing sites. Works with Cal OES and creates facilities plans, including mobilization centers and disaster support areas.

- **Resources:** Creates facilities plans, including mobilization centers and disaster support areas. Develops contingency contracts for procurement of services, materials, and supplies

and implements emergency procurement and supply procedures. Has fleet administration responsibilities, experience in dispatch functions and can coordinate travel and lodging. In coordination with and in support of Cal OES, maintains lists of qualified contractors and sources of equipment, and develops emergency procurement procedures for services, materials, and supplies. Makes available emergency facilities to State agencies displaced by disasters, conducts emergency procurement, and accelerates review of contracts and exempting such contracts from review when appropriate. Provides resource tracking proficiency.

- **Public Health and Medical:** Responsible for, in consultation with the California Department of Public Health and the Emergency Medical Services Authority, the development of procurement and transportation plans for obtaining and arranging delivery of disaster medical and health supplies and equipment.

- **Hazardous Materials:** Assists with the procurement of hazardous materials and debris removal services.

14.3.2. DEPARTMENT OF HUMAN RESOURCES (CAL HR)

- **Resources:** During emergencies affecting state employee, Cal HR can develop policy guidance or recommendations regarding temporary assignments or loan of an employee, administrative time off, telework or alternate work schedules, guidelines for illnesses (influenza outbreaks).

14.3.3. DEPARTMENT OF TECHNOLOGY (CDT)

The California Department of Technology (CDT) integrates the state's information technology (IT) functions to better manage equipment, personnel, and purchasing while optimizing the use of technology.

- **Communications:** Coordinates the disaster recovery planning efforts in compliance with Government Code Section 11549.3 and the State Administrative Manual (SAM) (Section 5325 et seq.) related to information technology computing and telecommunications infrastructure to ensure availability of essential systems, networks, applications, data, and telephones (both voice and data).

- **Management:** CDT is responsible for establishing and enforcing IT strategic plans, policies, standards, and enterprise architecture, and the IT project review, approval, and oversight programs. Maintains and provides access to enterprise-level geographical information systems (GIS) infrastructure and data resources, to support emergency response.

- **Recovery:** Participates in recovery planning efforts necessary to restore essential communications systems and operations, such as voice, email, and Internet connectivity that have been damaged by an emergency or disaster.

- **Cyber Security:** Coordinates with the California Cyber Security Integration Center - which consists of the following core members: California Governor's Office of Emergency Services, California Department of Technology, California Highway Patrol, and California Military Department – for cyber critical incident response including the detection, mitigation, and information sharing related to statewide cyber-related events.

14.3.4.FRANCHISE TAX BOARD (FTB)

- **Law Enforcement:** Ensures that investigators with peace officer authority are available.

- **Recovery:** Ensures that informational materials related to economic and taxation recovery efforts are available. Provides personnel and equipment to obtain tax relief for disaster losses. Provides personnel and equipment to obtain tax relief for disaster losses.

- **Public Information:** Provides periodic call center functions and support to Cal OES during extreme weather conditions, an emergency event, or disaster response operations to provide public information to the residents of California when such measures are needed and requested by Cal OES.

14.3.5.OFFICE OF ADMINISTRATIVE LAW (OAL)

- **Management:** Provides legal counsel and assistance to the Governor, Cal OES, and other State agencies.

14.3.6.PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

- **Management:** Assists Cal OES before, during, and after an emergency for coordination and direction. Provides staff with health and retirement benefit information for assistance.

- **Resources:** Assists with resources needed to assist in time of emergency. Provides bilingual staff fluent in languages other than English, with interviewing and investigative skills for translation and interpretation services in various non-English speaking communities.

- **Public information:** Provides public information support to Cal OES headquarters, regional offices, or local jurisdictions as required during state of emergency or disaster response operations.

14.3.7.STATE PERSONNEL BOARD (SPB)

- **Resources:** Accelerates the recruitment of personnel related to emergency and recovery programs, and assists agencies in filling critical positions throughout an emergency.

14.3.8. VICTIM COMPENSATION BOARD (VCB)

- **Law Enforcement:** Provides financial compensation to eligible victims of violent crime for out-of-pocket losses when they have no other source of reimbursement.
- **Recovery:** Provides financial compensation to eligible victims of violent crime to help with short-and long-term recovery. Benefits cover crime-related expenses for medical, mental health and dental treatment, funeral/burial expenses, income and support loss, relocation, crime scene clean-up, job retraining, and home and vehicle modifications.

14.4. CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY (CHHS)

The California Health and Human Services Agency (CHHS) consists of 13 departments. During an emergency, the agency can call upon its personnel and resources to address issues related to health care, social services, public assistance, and rehabilitation.

California Emergency Support Functions: CHHS serves as the lead agency for coordinating emergency activities related to care and shelter, and public health and medical services. The agency may assign primary and support roles to those departments within the agency that have the authorities, capabilities, and resources necessary to meet emergency needs.

14.4.1. DEPARTMENT OF AGING (CDA)

- **Care and Shelter:** Provides representatives, as requested and appropriate, to support lead emergency responders either directly or through the network of 33 Area Agencies on Aging (AAA). Coordinates with AAAs to identify and respond to the needs of older adults and/or adults with disabilities in the community to the extent possible.
- **Law Enforcement:** Coordinates with AAAs to identify, notify, and respond to the needs of older adults and/or adults with disabilities in the community.

14.4.2. DEPARTMENT OF CHILD SUPPORT SERVICES (DCSS)

- **Management:** Provides agency liaison to the EOC, as requested.
- **Resources:** Coordinates the planning and activities to locate, procure, and pre-position child support resources to support emergency operations and recovery.
- **Recovery:** Administers and expedites the release of child support payments to accommodate displaced families.

- **Public Information:** Supports the accurate, coordinated, timely and accessible release of child support services information to affected audiences, including governments, media, the private sector, and the local populace, including the special needs population.

14.4.3.DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT (CSD)

- **Care and Shelter:** Provides information lists related to community-based organizations that can provide outreach and safety-net services.

- **Recovery:** Administers and expedites the release of program funds to accommodate emergency conditions in low-income communities through the department's mandated programs when possible.

- **Volunteer and Donations Management:** Provides information lists related to community-based organizations that can provide outreach and safety-net services.

14.4.4.DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS)

- **Management:** Supports the disaster management activities with agency representative in the EOC, as requested by the CHHS or Cal OES.

- **Care and Shelter:** Following a disaster assessment, may provide facilities for shelter, food preparation, and medical and other specialized/adaptive equipment and supplies for individuals residing specifically in state-operated facilities such as DDS' state-operated community facility and the developmental centers. Coordinates with regional centers to identify and respond to the needs of the developmental services community.

- **Resources:** After developmental center and state-operated community facility emergency needs for DDS staff and consumers are fulfilled, supports the CHHS activities and resource requests from Cal OES.

- **Public Health and Medical:** Provides demographic and health information on individuals with intellectual and developmental disabilities served by DDS. May provide limited personnel with behavioral health, medical, and healthcare administration experience, including expertise to assist with assessment of shelter sites for incorporating individuals with intellectual and developmental disabilities, under the guidance of CHHS. Coordinates with regional centers to identify and respond to the needs of the developmental services community.

- **Public Information:** Provides communication professionals to support the health and medical response, under the guidance of CHHS.

14.4.5.DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

- **Care and Shelter:** Provides coordination to meet mental health and substance use requirements for shelters, as requested. May provide staff for Functional Assessment Service Team (FAST).

- **Public Health and Medical:** Ensures that Medi-Cal, Children's Health Insurance Program (CHIP), and Major Risk Medical Insurance Program (MRMIP) enrollees continue to receive medical care in the event of a disaster. Assesses whether there is a need to modify or waive Medi-Cal, CHIP, and MRMIP eligibility requirements in the affected area. Assists impacted mental health and substance use disorders facilities to secure approval to provide services and to claim for Medi-Cal reimbursement. Facilitates payments to Medi-Cal, CHIP, and MRMIP providers/plans and rural primary care clinics to ensure their continued ability to provide care. Provides information on bed availability of skilled nursing facilities, mental health, and substance use disorders facilities in respective areas. Assists, as needed, to coordinate community mental health disaster response services and activities, and to organize and coordinate communications with county mental health departments related to local mental health disaster response. Coordinates available State agency resources to support organizations providing emergency health and behavioral health services.

- **Law Enforcement:** May supply limited number of sworn peace officers and unmarked vehicles.

- **Volunteer and Donation Management:** Assists in coordination of mental health volunteers.

14.4.6.DEPARTMENT OF MANAGED HEALTH CARE (DMHC)

- **Public Health and Medical:** Provides information on Health Plan (HP) capabilities for essential medical services. Communicates to health plans emergency changes in policies, procedures, and rules necessary to support medical surge to HMOs. Provides licensed medical personnel as requested by Cal OES and CHHS. Participates in mitigation activities to improve survivability of health care systems in the event of emergencies.

14.4.7.CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH)

- **Construction and Engineering:** Provides technical assistance and support to state and local agencies who are responding to hazardous, biohazardous, or radioactive materials incidents. In conjunction with the Office of Statewide Health Planning and Development (OSHPD), inspects healthcare facilities to determine their ability to provide safe patient care following an emergency.

- **Fire and Rescue:** Provides technical assistance and support to fire and hazardous material responders during hazardous material, biological, or radiological incidents. Provides assessment of health risks to both first responders and the public due to contaminants

generated by fire, smoke, and hazardous material releases or spills, and other possible scenarios.

- **Management:** Prepares messages to inform the public on appropriate actions to protect their health and safety. Maintains the California Health Alert Network (CAHAN) to notify appropriate response personnel of significant health/medical related events and/or the need to respond. Prepares public health and medical reports in concert with the Emergency Medical Services Authority (EMSA) and other CHHS departments. Provides technical assistance related to communicable disease, biological, chemical, radiological, hazardous materials, or other public health and environmental health concerns.

- **Care and Shelter:** Ensures the safety of food, drugs, medical devices, and other consumer products following a disaster. Regulates drinking water bottling plants, distributors, and haulers to ensure the safety of bottled or hauled water used as emergency supplies of drinking water. Provides support to local health departments for infectious disease surveillance, food-borne illness outbreak response and food safety, and sanitation standards in regulated facilities and shelters. Analyzes impacted areas for safe return of displaced populations. Supports the CDSS in coordinating public health and emergency medical needs in general population shelters.

- **Public Health and Medical:** CDPH is designated as a co-lead for ESF-8. Administers and coordinates disaster-related public health programs and assesses hazards to public health, including the health of communities, workers, and first responders. Provides statewide policies on environmental health. Coordinates with local health departments to conduct surveillance of infectious diseases in areas impacted by the disaster and determines appropriate actions to prevent and control disease outbreaks or spread. Implement pandemic influenza response plans in coordination with local health departments and State agencies. Provides laboratory services related to testing of food, drug, cosmetics, drinking water, hazardous materials, and environmental samples. Provides laboratory services to state and local public health and clinical laboratories and cooperating federal laboratories. Provides epidemiology and surveillance technical support for such things as chronic disease exacerbation following disasters, survey development for injuries, surveillance of infectious diseases, contact tracing, and disaster epidemiology. Assesses potential health effects and recommends protective measures, and drafts guidance to protect public from chemical, biological, and radiological incidents. Obtains and provides medical supplies and pharmaceuticals following a disaster. The Center for Health Care Quality, Licensing and Certification Program monitors the quality of care in licensed health care facilities to ensure the health, safety, and continuity of care to clients. This includes the assessment for compliance with applicable regulations pertaining to emergency preparedness and disaster response for facilities the department regulates. The Licensing and Certification Program ensures operational readiness to provide care in coordination with OSHPD's role of structural and operational facility evaluation.

- **Hazardous Materials:** With responding agencies, coordinates investigations of chemical exposures and determines appropriate protective actions. Provides subject matter experts, such as toxicologists, epidemiologists, environmental scientists, occupational physicians, and

industrial hygienists. Develops guidance on occupational exposure issues. Maintains an extensive library of chemical, toxicological, and other environmental and occupational emergency response information. Provides personnel trained in Assessment of Chemical Exposures, a rapid registry and public health investigation tool used for large scale hazardous material incidents. Coordinates emergency medical waste management with responsible state and local agencies. Provides technical assistance in support of local radiological monitoring and decontamination programs in the event of a radiological incident. Provides laboratory services related to hazardous materials. Coordinates protection of shellfish growing areas with applicable state and local agencies. Provides assessment of health risks to both first responders and the public due to releases of hazardous materials.

- **Food and Agriculture:** Ensures the safety of food and agricultural commodities impacted by a disaster. Acts as a technical resource on disease-carrying insects and animals. Assists with the assessment of hazards to human health posed by broad application of pesticides used to combat invasive species and disease carrying insects. Provides laboratory and assessment services related to chemical, microbial, and radiological contaminants and provides protective action recommendations for food and drinking water in case of radiological incidents.

- **Utilities:** Provides technical assistance and guidance on measures to protect the health and safety of the public during nuclear power plant incidents.

- **Law Enforcement:** Provides technical assistance and guidance on radiation safety to law enforcement organizations. Provides assessment of health risks to first responders, patients, and the public due to hazardous material releases. Works with fire and law enforcement to determine patient safety within licensed healthcare facilities. Supports local jurisdictions in safe evacuation of patients from healthcare facilities due to disaster. Provides assistance/coordination in identifying facilities needing evacuation, setting evacuation prioritizations, and in-facility re-population. Provides support for infant transport from neonatal intensive care units in coordination with EMSA. Provides technical support for assessments of radiation levels that require evacuation in a radiological incident.

- **Recovery:** Supports the restoration of healthcare facilities. Provides support for monitoring remediation of contaminated property and related recovery activities due to a radiological incident. Ensures the safety of emergency-related salvage and redistribution of food, as well as ensuring the safety of food supplies. Provides disaster epidemiology tools to local jurisdictions to help assess community needs, such as long-term disaster impacts or behavioral issues.

- **Public Information:** The CDPH Office of Legislative and Governmental Affairs assists with the coordination of delivering CDPH information and fielding inquiries to and from legislative and congressional members and staff. The CDPH Office of Public Affairs provides messages to inform the public on appropriate actions to protect their health and safety in the event of a hazardous material, infectious agent, or other incident.

- **Volunteer and Donations Management:** Provides technical advice and assists with coordinating donated pharmaceuticals, vaccines, and medical supplies.

14.4.8.DEPARTMENT OF REHABILITATION (DOR)

- **Care and Shelter:** Conducts functional assessments of people with disabilities and others with access and functional needs to determine what resources are needed so an individual can remain in a general population shelter. Contributes personnel for evaluation teams to assess shelter sites for the ability to accommodate the needs of people with disabilities.

- **Public Health & Medical:** Assists California Department of Social Services (CDSS) and American Red Cross (ARC) shelters in identifying resources for relocation of people with disabilities.

14.4.9.CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

- **Management:** Offers information on mass care and shelter operations. Provides agency and ESF representatives to EOCs as requested to facilitate care and shelter resource requests.

- **Care and Shelter:** Serves as the lead department for the coordination of resources to support mass care and shelter activities through CA-ESF 6. Identifies state resources available for support in mass care and shelter operations. With Cal OES, coordinates the social services portion of the State of California Emergency Repatriation Plan.

- **Public Health and Medical:** Coordinates with supporting State agencies to ensure public health and emergency medical concerns and needs in shelter populations are addressed.

- **Food & Agriculture:** Coordinates with CDFA to ensure companion animal needs in shelter locations are addressed.

- **Law Enforcement:** Coordinates mass care support of evacuees through evacuee identification, language translation services, and family reunification.

- **Recovery**: Coordinates the Emergency Food Assistance Program (EFAP) to supply commodities to communities affected by disasters. In addition, administers the State Supplemental Grant Program (SSGP) for presidentially declared disasters which include the federal Individuals and Households Program (IHP).

- **Public Information:** Provides public information on mass care and shelter operations.

- **Volunteer and Donations Management:** Coordinates available State agency resources to support organizations providing emergency social services.

14.4.10.DEPARTMENT OF STATE HOSPITALS (DSH)

- **Management:** Supports the disaster management activities with agency representatives in the EOC, as requested by CHHS or Cal OES.
- **Resources:** Fulfills after hospital emergency needs for DSH staff and patients, and supports CHHS activities and resource requests from Cal OES.
- **Public Health and Medical:** Fulfills after hospital emergency needs for DSH staff and patients, and may provide limited personnel with behavioral health, medical and healthcare administration experience to support health care operations under the guidance of CHHS.
- **Public Information:** Provides communications professionals, support risk communications, and messaging to support the health and medical response.

14.4.11.EMERGENCY MEDICAL SERVICES AUTHORITY (EMSA)

- **Transportation:** Coordinates the movement, reception, and care of patients during an evacuation.
- **Communications:** Provides redundant vertical and horizontal communications with emergency medical services, public health, and public safety partners.
- **Fire and Rescue:** With fire services, coordinates and integrates personnel, resources, and emergency fire pre-hospital medical services. Provides coordination with Ambulance Strike Teams in accordance with Standardized Emergency Management System (SEMS).
- **Management:** Manages state-level medical response. Prepares medical and public health reports in concert with the CDPH and assists with situation status and analysis.
- **Care and Shelter:** Provides information on the medical requirements of shelters, the availability of medical facilities, and the availability of medical personnel to assist with shelter operations in accordance with the SEMS.
- **Resources:** Coordinates obtainment of medical resources to accommodate medical surge at the local and regional levels in accordance with SEMS.
- **Public Health and Medical:** EMSA is designated as a co-lead for CA-ESF 8. Coordinates, through local EMS agencies, medical and hospital preparedness with other local, state, and federal agencies and departments having a responsibility relating to disaster response. Responds to any medical disaster by mobilizing and coordinating mutual aid resources and state mobile medical assets to mitigate health problems. EMSA administers the statewide Disaster Healthcare Volunteer (DHV) Program, which includes the Medical Reserve Corps (MRC) volunteers. This program allows for pre-registration, license verification, notification deployment, and management of local (OA) volunteer licensed medical and health

professionals that provide personnel to assist with medical surge and public health emergencies.

- **Hazardous Materials:** Assists in the state's medical efforts specific to a hazardous material incident and provides coordination and support for transporting contaminated patients outside of the affected area. Works with local responders to facilitate the safe movement of contaminated patients. Coordinates obtainment of situation status reports utilizing the EMSA Duty Officer Program.

- **Food and Agriculture:** Provides support by collaborating with the California Veterinary Medical Reserve Corps in the Disaster Healthcare Volunteer Program and by participating on the California Animal Response Emergency System (CARES) Steering Committee.

- **Public Information:** In collaboration with CDPH, provides risk communication and social media support by addressing medical and health concerns of the public that are affected by an incident.

- **Volunteer and Donations Management:** Manages the Disaster Healthcare Volunteer Program, which includes the Medical Reserve Corps Program. This program allows for pre-registration, license verification, notification, deployment, and management of volunteer, licensed medical and health professionals who provide personnel to assist with medical surge.

14.4.12. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD)

- **Communications:** Engages in the development of public messages with CA-ESF 8 with regards to the status of the structural integrity of acute-care buildings and skilled nursing facilities, and whether these facilities can continue to provide services.

- **Construction and Engineering:** Provides staff for multi-disciplinary teams to inspect hospitals, skilled nursing facilities, and intermediate care facilities for structural, critical nonstructural, and fire/life safety issues to determine if any healthcare facilities have been compromised and damaged to a degree that has made them unsafe to occupy. Closes or limits access to any healthcare facility (or portion thereof) that poses a threat to life and safety. Provides expedited construction processes in the recovery phase of the emergency for hazard mitigation.

- **Resources:** In the aftermath of a seismic event, after fulfilling its statutory mandates and under the mutual aid agreement, provides technical assistance to other departments, agencies, and local government.

- **Public Health and Medical:** Inspects hospitals, skilled nursing facilities, and intermediate care facilities for structural, critical non-structural, and fire/life safety. Reports to Cal OES and Public Health and Medical CA-ESF 8 Preliminary Damage Assessments as well as operational status of healthcare facilities following an event. Provides on-site consultation

and approval of work required to ensure the safety of occupants and the return of health facilities to service. Enforces building codes and state laws deemed essential for the safety of hospitals and their occupants. Coordinates with CDPH Licensing and Certification to determine facility capacity to continue or resume care.

- **Recovery**: Provides on-site consultation and approval of work required to ensure the safety of occupants and the return of health facilities to service. Provides expedited construction processes for damaged health care facilities in the recovery phase of the emergency.

14.4.13. OFFICE OF SYSTEMS INTEGRATION (OSI)

- **Management:** Assists CHHS or its departments to respond to significant health/medical related events. Provides assistance, as directed by CHHS, in an advisory capacity for the recovery and support of health and human services IT systems.

- **Care and Shelter:** Supports the recovery of health and human services IT support systems that provide information or services to residents of shelters and others affected by the emergency.

- **Resources:** Provides subject matter experts for the project management functions of the IT systems recovery and also provides assistance in advisory role for the IT operations support of vendor managed systems.

- **Public Health and Medical:** Provides IT system support in an advisory capacity for the systems that provide demographic and health information on individuals with developmental disabilities throughout the state. Provides advisory support for other health and medical IT systems to support response.

- **Cybersecurity:** Provides subject matter experts in an advisory capacity for the management of system and data security as directed by CHHS and per the guidelines of California Department of Technology and California Information Security Office.

14.5. CALIFORNIA NATURAL RESOURCES AGENCY

The California Natural Resources Agency oversees policies and activities of 17,000 employees in 25 departments, commissions, boards, and conservancies. The agency addresses natural resource issues ranging from conservation, water, fish and game, forestry, parks, energy, coastal, marine and landscape.

California Emergency Support Functions: Serves as the lead agency for coordinating emergency activities related to utilities. The agency may assign primary and support roles to those departments within the agency that have the authorities, capabilities, and resources necessary to meet emergency needs.

14.5.1.CALIFORNIA COASTAL COMMISSION

- **Resources:** Provides staff with expertise in land use planning, legal issues, environmental impact assessment, GIS systems, administrative and scientific specialists, and regulatory matters.
- **Hazardous Materials:** Provides scientists including marine biologists, geologists, coastal engineers, and terrestrial ecologists with expertise in oil spill response issues.
- **Recovery:** Provides technical assistance and experience in developing and implementing mitigation measures to address geologic, coastal hazard, and biological issues. Provides emergency permit issuance expertise.

14.5.2.CALIFORNIA CONSERVATION CORPS (CCC)

- **Transportation:** Provides personnel to support transportation-related emergencies and assist with facilitating transportation activities.
- **Construction and Engineering:** Provides personnel and crews to assist with flood mitigation projects. Provides crews to clear debris, stabilize hillsides, and perform flood fighting activities. Assists with the restoration of structures and property.
- **Fire and Rescue:** Provides personnel and crews to assist with fire suppression and support activities. Assists with search and rescue activities as well as movement of injured persons in rescue operations.
- **Care and Shelter:** Can provide personnel to assist with set-up and maintenance of care and shelter facilities. Provides personnel for mass care facilities, California Animal Response Emergency System (CARES), and for other animal-related emergencies.
- **Resources:** Furnishes personnel, crews, and/or equipment to support emergency operations.
- **Public Health and Medical:** Provides personnel to support emergency medical services operations.
- **Hazardous Materials:** Provides crews and personnel to assist with mitigation or clean-up activities of environmental or hazardous material releases.
- **Food and Agriculture:** Provides personnel and crews to assist with mitigation and removal of agricultural pests.
- **Law Enforcement:** Assists local law enforcement with transportation or security.
- **Public Information:** Provides crews or personnel to assist with the distribution of information to the local populace.

14.5.3.CALIFORNIA ENERGY COMMISSION (CEC)

- **Hazardous Materials:** Assists in developing federal and state emergency response plans and procedures for accidents involving nuclear waste/radioactive material shipments.

- **Utilities:** Provides advice, technical assistance, and public outreach to respond to energy shortage or disruption. Provides Cal OES the location of energy facilities and technical assistance for forecasting energy shortages (electricity, natural gas, and fuel) and develops specific state actions in the event of a serious shortage of energy. At the direction of the Governor, implements the Fuel Set-Aside Program for events requiring regional or statewide coordination of fuels.

14.5.4.STATE LANDS COMMISSION (SLC)

- **Utilities:** Coordinates the preparedness of oil and gas facilities in the event of an emergency. Assists with coordination of emergency operations after an oil or gas spill by providing technical expertise and analysis, and suspends any drilling and oil and gas production or oil transfer operations in the event of a disaster. Ensures readiness of oil and gas facilities to respond to spills, provides information on current environmental resource status on sovereign lands, provides expertise and technical resources to assist in hazard identification and handling, evaluate marine environments, assess impacts to the environment and cultural resources, and assesses hazards related to offshore oil and gas wells and facilities and marine terminals.

- **Recovery:** Assists with the determination of the environmental impact of an emergency. Provides land surveyors, appraisers, engineers, scientists, and inspectors. Coordinates with local governments and State agencies to issue emergency permits for new construction, land modifications, and any dispositions or extractions of materials on sovereign lands. Provides licensed land surveyors, engineering expertise, and geological expertise, and provides for removal of watercraft and other obstructions from sovereign lands.

14.5.5.CALIFORNIA DEPARTMENT OF CONSERVATION (DOC)

- **Management:** Maintains geological and seismological maps and information regarding the state's geological and seismic hazards. Provides geotechnical data and expertise to support emergency operations. Provides technical specialists for seismological and geological interpretations and investigations. Provides technical assistance in recovery operations.

- **Hazardous Materials:** Provides guidance to prevent release from oil and gas drilling or producing facilities. Provides advice on oil spill cleanup and responds accordingly to the incident. Provides technical expertise and response to oil spill, gas, produced water and/or geothermal incidents, and guidance to prevent release from oil and gas drilling or producing facilities.

- **Utilities:** Provides guidance to prevent release from oil and gas drilling or producing facilities. Provides advice on oil spills and responds accordingly to the incident. Provides technical expertise and response to oil spill, gas, and/or geothermal incidents, and guidance to prevent release from oil and gas drilling or producing facilities.

14.5.6.DEPARTMENT OF FISH AND WILDLIFE (CDFW)

- **Management:** Provides statewide incident management and technical specialist positions and/or teams for marine or inland oil/hazmat incidents, and law enforcement incidents. Provides staff to assess natural resource damages and provides wildlife rehabilitation and technical expertise in habitat conservation for wildlife affected by an emergency or the response to the emergency.

- **Resources:** Provides aircraft, 4X4 vehicles, ATVs, watercraft, and crews. Provides technical expertise, equipment, and staff to conduct underwater surveys, air monitoring and site characterization, streambed alterations, and damage assessments.

- **Oil Spills:** State lead for coastal and inland oil spill response. Assists in planning and exercising oil spill response with other agencies, identifies sensitive sites, and develops appropriate response strategies. Provides legal and technical expertise on wildlife, fisheries, and environmental issues. Provides Geographic Information System (GIS) capabilities, statewide communication, and technical expertise related to oil.

- **Law Enforcement:** Provides legal and technical expertise on wildlife, fisheries, and environmental issues, and in habitat conservation for wildlife affected by an emergency or the response to the emergency. Provides sworn peace officers with statewide capability for criminal and civil investigations and provides trained personnel to assist in evacuation of residents in coordination with local law enforcement. Provides trained personnel for law enforcement critical incidents. Provides GIS capabilities and statewide communication. Provides K9 and Detection teams for apprehension of suspects and detection of evidence. Provides search and rescue teams, search dog teams for law enforcement and wildlife depredation, aircraft, 4X4 vehicles, ATVs, equipment, air operations, and hazardous materials technical expertise.

- **Public Information**: Coordinates with local governments and State agencies to provide public outreach.

14.5.7.DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE)

- **Communications:** Possess communications capacity and procedures for fire service communications.

- **Construction and Engineering:** Provides technical resources for safety, environmental and damage assessments and building inspections, civil engineers and light and heavy equipment

repair personnel and facilities. With OSHPD, inspect hospitals and other licensed care facilities for structural integrity and fire/life safety.

- **Fire and Rescue:** Provides fire protection services and emergency fire personnel and equipment. Provides trained personnel and teams, vehicles, and aircraft (fixed and rotor wing) for patrol and search and rescue.

- **Management:** Offers SEMS-qualified personnel for all SEMS levels and positions, logistical support, finance personnel for cost tracking, procurement, collection, and reimbursement. Provides emergency fire, SEMS, and other associated emergency response training and planning assistance. Supports Cal OES, as needed, in liaison responsibility specific to emergency operations, and safety management measures, and offers assistance with situational status analysis.

- **Care and Shelter:** Provides mobile feeding capabilities.

- **Resources:** Offers an Emergency Resource Directory (ERD) of vendors to supply equipment and resources, logistical support, light and heavy equipment repair personnel and facilities, certified water and sewer plant operators, and finance personnel for cost tracking, procurement, collection, and reimbursement. Provides light and heavy equipment repair personnel and facilities, and certified water and sewer plant operators.

- **Public Health and Medical:** Provides medical and other associated emergency response personnel, training, and planning assistance.

- **Hazardous Materials:** Provides hazardous materials and other incidents response training and planning assistance, technical expertise in bomb incidents, explosives disposal and liquid hazardous pipeline incidents, trained environmental assessment personnel, and certified HAZMAT personnel. Provides technical expertise on emergency response planning and mitigation for liquid pipelines, spills, and other incidents.

- **Law Enforcement:** Provides law enforcement and other associated emergency response training and planning assistance. Provides Peace Officers Standards and Training (POST) certified peace officers for law enforcement mutual aid, security, and civil/criminal investigations who are trained in arson and bomb investigations. Assists with evacuating threatened populations.

- **Utilities:** Provides water and sewage plant operators/supervisors to assist with testing and facilitating repairs of wells and water treatment facilities.

- **Public Information:** Provides qualified Public Information Officers to the Joint Information Center in major incidents, and support to public information efforts statewide.

14.5.8. DEPARTMENT OF PARKS AND RECREATION (CALIFORNIA STATE PARKS)

- **Communications:** Possesses communications capability. Provides emergency communications and logistics support.

- **Construction and Engineering:** Provides engineers and architects to assess structural damage and emergency stabilization, historical preservation technical staff who are experts in National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA), trade and maintenance personnel to assist with repair of disaster-related damage, and equipment operators and earth-moving equipment for debris removal, shoring levees, and establishing temporary roads and fire breaks. Offers historical preservation technical staff for NEPA and CEQA requirements, information on historic resources through the California Historic Resource Information System (CHRIS), and equipment operators and complementary earth-moving equipment, and water and sewage plant supervisors.

- **Fire and Rescue:** Provides firefighters and equipment for structural and wildland fire suppression, and operators and equipment for establishing temporary roads and fire breaks.

- **Management:** Provides managers and agency representatives for the EOC or SOC as advisors and coordinators. May help coordinate NIMS/SEMS at the Incident Command Post.

- **Care and Shelter:** Provides shelter, water, and sanitation facilities in state park campgrounds.

- **Resources:** Provides various resources to support emergency operations. Also provides information on historic resources.

- **Hazardous Materials:** Participates in oil spill response.

- **Utilities:** Provides water and sewage plant supervisors to assist with testing and facilitating repairs of wells and water treatment facilities.

- **Law Enforcement:** Provides peace officers to assist with law and order re-establishment, evacuations, traffic control, specialized equipment vessels, Self-Contained Underwater Breathing Apparatus (SCUBA), airplane, all-terrain vehicles, off-road vehicles, and K-9 teams for searching and detection (people, bombs, and drugs). Provides teams, vehicles, vessels, and airplanes for patrol and search and rescue. Provides personnel (lifeguards) and vessels, for aquatic rescue, and swift water rescue, equipment for land rescue, and SCUBA teams for rescue and body recovery.

- **Public Information:** May provide a PIO to assist in information sharing and coordination.

- **Volunteer and Donations Management:** May provide staff to assist in organizing volunteer groups and utilizing existing groups within the department.

- **Cybersecurity:** May provide support at the local area or work with the Resource Agency for statewide impact.

14.5.9.DEPARTMENT OF WATER RESOURCES (DWR)

- **Communications:** Maintains a communication infrastructure (radio, phone, websites, etc.) to allow continuous communication during an emergency. Coordinates communications infrastructure restoration with industry service providers. Continues to be a representative on the Public Safety Radio Strategic Planning Committee.

- **Construction and Engineering:** Assists local agencies with the planning and implementation of water conservation measures. Provides general engineering advice, services, and technical resources to any other state agency requiring help. Works to mitigate the effects of an emergency on the State Water Project (SWP) and performs any work required to avert, alleviate, repair, or restore damage or destruction to property having a general public and state interest during an emergency. Assists the DGS with construction-related procurements using the contracting authority under California Water Code 10122. Carries out flood fights and provides engineering advice and technical resources for flood mitigation and protection of dams, levees, and reservoirs.

- **Fire and Rescue:** Provides technical assistance for post-fire watershed assessments which includes assessing burn scars for characteristics leading to runoff, mud flows, and flooding. Coordinates available water supply for fire suppression.

- **Management:** Maintains and operates the State-Federal Flood Operation Center. Assists with advance planning during flood emergency operations. Monitors conditions and provides warning to Cal OES on developing weather, stream flow, flooding, dam performance, or other potential emergencies. Provides flood fight Technical and Direct Assistance to counties and local agencies during high water events as well as provides a conduit to USACE for PL 84-99 assistance. Responsible for the supervision of all jurisdictional dams in the State, for the purpose of protecting people against loss of life and property from dam failure.

- **Resources:** Keeps an updated database for all physical and technical resources available during an emergency.

- **Public Health & Medical:** Coordinates available water supply to be treated for safe drinking water. Supports the testing of water sources to determine if the water is safe to drink.

- **Utilities:** Maintains a seat on the board of the California Utilities Emergency Association (CUEA). Participates on the Energy and Pipeline and Water/Wastewater Committees that CUEA oversees. Continues to provide energy and ancillary services from the SWP supporting the California electrical grid.

- **Recovery:** Supports recovery efforts as requested. Restores SWP facilities and all other flood protection and control facilities under departmental jurisdiction.

- **Public Information:** Sends Public Affairs Office (PAO) representatives to primary Joint Information Centers (JICs) that have been stood up in an emergency.

14.5.10. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

- **Construction and Engineering:** Provides staff engineers with expertise on bay and coastal area seismic safety and flood protection measures and approves emergency permits for all activities within and along San Francisco Bay.

- **Hazardous Materials:** Provides personnel with expertise in oil spill containment and clean up.

14.6. DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

- **Construction and Engineering:** Provides inmate crews to fill and emplace sandbags and other flood mitigation tasks. Assists with seawall reconstruction, seismic retrofit activities, vegetation abatement, debris clearing, historical site preservation, and structural reconstruction. Provides inmate crews to assist in mitigation activities to public facilities, and makes inmate crews available to assist with community clean-up and reconstruction activities.

- **Fire and Rescue:** CDCR operates 25 All-Risk Fire Departments and may provide fire-fighting personnel and equipment if requested through mutual aid. Stations are staffed 24 hours a day at the following locations: Avenal, Blythe, Calipatria, Chino, Chowchilla, Coalinga, Corcoran, Corona, Crescent City, Delano, Folsom, Imperial, Ione, Jamestown, Lancaster, Norco, San Diego, San Luis Obispo, San Quentin, Soledad, Susanville, Tehachapi, Tracy, Vacaville, and Wasco. CDCR provides inmate firefighters to 48 Conservation Camps operated by CAL FIRE.

- **Management:** Provides Agency Representatives to the SOC to advise the SOC Director.

- **Care and Shelter:** Provides facilities (where appropriate) for care. Provides water (on-site), food products, and food service equipment.

- **Resources:** Provides peace officers, emergency managers, incident command support teams, interpreters, crisis counselors and clergy of various faiths, procurement personnel, instructors (academic, educational, vocational) and public communications personnel, photographers, videographers/editors and related equipment, information technology (IT) staff including programmers and software specialists, skilled account clerks, accounting officers, auditors and financial officers, and administrative personnel. Provides computers, printers, other

business machines, and office supplies. Provides tools including hydraulic, pneumatic, and hand tools, winches, chain saws and heavy equipment, generators, pump, and portable power units.

- **Public Health and Medical:** Provides medical personnel to include primary care doctors, nurses, technicians, psychiatrists, dentists, and mental health providers. Provides medical supplies, equipment, pharmaceuticals, and facilities (where appropriate) for care.

- **Hazardous Materials:** Provides hazardous materials specialists for the collecting, segregating, and disposal of household hazardous waste, and setting or recommending evacuation, re-entry, clearance, and remediation levels. CDCR operates one fire department with hazardous materials response and technical decontamination capability at San Luis Obispo and may be requested through mutual aid.

- **Law Enforcement:** Provides prison/detention facilities and secure housing (subject to facility). Provides peace officers and personnel to track parolees. Provides peace officers equipped with basic duty gear, firearms, and munitions to assist with traffic control, criminal investigations, and basic peace officer duties. Provides peace officers equipped with various types of firearms and gear for crowd and riot control. Provides peace officers trained in hostage negotiation. Provides peace officers equipped and trained to provide tactical law enforcement support and Special Weapons and Tactics (SWAT) resources.

- **Public Information:** Develops and releases information to the news media and to department stakeholders about CDCR's role and activities in responding to emergencies and/or disasters. Provides trained public information officer personnel to support and assist Cal OES's public information response and recovery efforts. Develops and releases information about the emergency or disaster as it pertains to adult and youthful offender correctional and parole issues.

14.7. DEPARTMENT OF EDUCATION (CDE)

- **Transportation:** Vehicles for transportation may be made available.

- **Care and Shelter:** Promotes the use of school property for public agencies during disasters via the comprehensive school safety plan as required by Education Code Section 32280-32289. May provide food supplies in case of an emergency.

- **Public Health and Medical:** Supports emergency medical services, when necessary.

- **Recovery:** Supports retraining programs to resume essential enterprises.

- **Public Information:** Posts resources and education materials on natural and technological hazards and emergency preparedness on department's website. Helps the Cal OES Public Information Office prepare and disseminate public information, instructions, and advice. Provides public information support as required to assist in recovery operations.

14.8. DEPARTMENT OF FINANCE (DOF)

- **Resources:** With the consent of the Governor, allocates resources, assigns funds through Cal OES or other appropriate agency for State agencies for emergency-related activities, and evaluates and approves, if appropriate, agency emergency expenditures.

- **Recovery:** Allocates funds through Cal OES for local agencies to repair, restore, or replace public real property damaged or destroyed. Develops criteria for State agency recovery of non-federally reimbursed costs of emergency activities and develops streamlined approval processes. During a war emergency, directs the State Economic Stabilization Organization and serves as a member of the Resources Priorities Board, establishing state economic stabilization programs in conformity with state and federal law. Ensures non-federal reimbursement processes are expedited during an emergency. Has oversight for state financial transactions. Institutes state economic stabilization programs and consults with local, state, and federal officials about time-phased resumption of economic stabilization controls by the federal government.

14.9. DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

California Emergency Support Functions: Serves as the lead department for coordinating emergency activities related to food and agriculture. These activities include, but are not limited to: plant disease and pest infestation, animal disease, food and feed contamination, and the California Animal Response Emergency System (CARES). The department may assign primary and support roles to those units within the department that have the authorities, capabilities, and resources necessary to meet emergency/disaster needs.

- **Care and Shelter:** Coordinates with private sector organizations dedicated to providing food, water, shelter, and care to animals/livestock. Provides fairground management contact information for fairgrounds that may be used for human or animal mass care shelters. Coordinates the California Animal Response Emergency System (CARES) in support of local government, non-governmental, and volunteer organizations to provide food, water, shelter, and care to animals/livestock. Coordinates with CDSS and DGS to arrange for co-location of animal shelters with human shelters.

- **Resources:** Provides contact information for fairs throughout the state when information is needed on available fairgrounds that may be activated as human and/or animal mass care shelters, mobilization centers, storage sites, and/or staging areas for emergency response supplies, equipment, and personnel.

- **Public Health and Medical:** Provides information relative to outbreaks of livestock diseases that may have an impact on human health, and coordinates with the California Department of Resources Recycling and Recovery, Cal EPA, and rendering companies to support disposal of animal carcasses. In coordination with the California Veterinary Medical Reserve Corps and the California Veterinary Medical Association, provides information on available storage sites and staging areas for animal food and medical supplies, and animal

care personnel. Leads the administration of programs to detect, control, and eradicate diseases, insects, and vertebrate pests affecting plants and animals, and protect human and animal food from contamination prior to, during, and post disaster. Supports local agencies and animal shelters with efforts to provide food, water, shelter, and veterinary care to affected animals.

- **Food and Agriculture:** Leads efforts to support the continuance, safety, and security of production agriculture and livestock. Coordinates the integrated federal, state, and local preparedness for, response to, recovery from, and mitigation of animal and plant diseases and pests, overseeing the control and eradication of outbreaks of highly contagious or economically devastating livestock diseases, foreign animal diseases, or outbreaks of harmful or economically significant plant pests and diseases. Supports the continued movement of production agriculture commodities, when local government resources are exhausted, by coordinating with ESF 1 to facilitate critical movement. Executes routine dairy and food safety inspections and other services to ensure the safety of dairy food products prior to entering commerce. Provides support for recovery of impacted food and agriculture industries and resources after disasters by evaluating and reporting agricultural sector damage and resultant economic losses to the Governor's Office and Cal OES.

- **Law Enforcement:** Coordinates with CalSTA and local organizations that provide transportation resources and animal care personnel for affected animals/livestock.

- **Recovery:** Evaluates and reports agricultural sector damage and resultant economic losses to the Governor's Office and Cal OES.

14.10. DEPARTMENT OF INSURANCE (CDI)

- **Construction and Engineering:** Conducts damage assessments to ascertain damage to insured structures using data provided by insurers operating in the state. Coordinates with Cal OES and insurance companies for the deployment of the Insurance Disaster Assessment Teams (IDAT), if necessary. IDAT teams conduct up-front assessments of overall damage prior to adjusters being allowed into the damaged areas. Provides technical expertise on insurance programs and impacts.

- **Law Enforcement:** Provides criminal investigators who are sworn peace officers to assist responsible law enforcement agencies. Assists responsible agencies in traffic supervision and control; law enforcement mutual aid to local law enforcement agencies; and protection to state facilities and occupants. Provides catastrophe response teams to work in conjunction with the department's Consumer Services Division to provide public information to consumers regarding fraudulent and unscrupulous insurance claim practices made by and on behalf of contractors, claimants, and providers.

- **Recovery:** Provides public information through the DSCs and Cal OES Public Information Office to consumers regarding fraudulent and unscrupulous insurance claim practices made by and on behalf of contractors, claimants, and providers. Provides post-disaster statistical insurance information compiled by the Statistical Analysis Division. Immediately after an

event, provides insurance information forms and instructions for filing a Request for Assistance. Provides staff to deliver technical assistance to the public on a variety of insurance issues. Provides consumer hotline contact information to the public impacted by emergencies and disasters. Provides personnel for door-to-door service in partnership with FEMA and Cal OES. Provides the public with insurance information, and if necessary, guidance in filing a claim with their insurance company. Provides attorneys with expertise regarding insurance coverage, the insurance claim process, and the Federal Disaster Relief and Emergency Assistance Program.

- **Public Information:** Provides information to consumers and public businesses on how FEMA works with the insurance industries regulated by the department. Provides public information through the DSCs and Cal OES Public Information Office to consumers regarding fraudulent and unscrupulous insurance claims practices made by and on behalf of contractors, claimants, and providers.

14.11. DEPARTMENT OF JUSTICE (DOJ)

- **Resources:** Provides legal counsel for the emergency to Resources Priorities Board and Emergency Resources Management Organization.

- **Law Enforcement:** Assists local agencies in the identification of deceased, injured, or missing persons. Counsels the Governor, Cal OES, and other State agencies on legal matters, Assists Cal OES with communications activities and offers intelligence information and legal advice to authorized state officers and employees. Provides staff and communications to law enforcement mutual aid operations, collects and analyzes criminal intelligence information and collaborates in locating terrorists and their weapons. Provides legal guidance and state intelligence assistance related to criminal activities and acts as liaison to the Federal Bureau of Investigation. Collaborates and assesses the information on threats made by terrorists who may have weapons of mass destruction. Assists in gathering information to support litigation of a hazardous materials incident. Collaborates with other agencies to collect and analyze the information on threats made by terrorists who may have weapons of mass destruction.

14.12. CALIFORNIA DEPARTMENT OF VETERANS' AFFAIRS (CALVET)

- **Care and Shelter:** Has mass care facilities. Provides food and shelter to victims at departmental facilities.

- **Public Health and Medical:** Can provide limited medical staffing and facilities. Can receive and care for casualties at department hospitals.

- **Recovery:** Provides staff and financial assistance to CalVet loan holders who are disaster victims and in need of CalVet assistance at the Local Assistance Centers and Disaster Recovery Centers.

14.13. FAIR POLITICAL PRACTICES COMMISSION (FPPC)

- **Resources:** Provides legal counsel and assistance to the Governor, Cal OES, and State agencies.

14.14. GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT (GO-BIZ)

- **Recovery:** Hosts annual disaster readiness workshops for small businesses. Facilitates introductions to local and regional economic development partners that could assist businesses after an emergency, including small business development centers, economic development corporations, and city economic development departments. Serves as liaison with state economic and workforce development partner organizations, including Employment Training Panel, Employment Development Department, and California Workforce Investment Board.

- **Public Information:** Coordinates interviews with business community. Works with local and regional partners, including small business development centers and economic development corporations, to support the accurate, coordinated, timely, and accessible transmission of information to the California business community.

- **Volunteer and Donations Management:** Works with local and state partners, including the Employment Development Department and regional economic development organizations, to identify companies that can assist with volunteer donations and management activities.

14.15. GOVERNOR'S OFFICE OF EMERGENCY SERVICES (CAL OES)

California Emergency Support Functions: Serves as the lead agency for coordinating emergency activities related to communications, fire and rescue, management, law enforcement, recovery, public information, and cybersecurity. May assign primary and supporting roles to those branches or units within the department with the authorities, capabilities, and resources necessary to meet emergency needs.

- **Communications:** Manages the California State Warning Center, the State's portion of the National Warning System and the California Warning System. Assists with the coordination of information systems throughout the state, including California Emergency Operations Center (CalEOC), GIS, personal computer support, satellite systems, and landline and radio systems.

- **Construction and Engineering:** Coordinates the State Safety Assessment Program (SAP). SAP utilizes volunteers and mutual aid resources to provide professional engineers, architects, and certified building inspectors to assist local governments in safety evaluations of their built environment in the aftermath of a disaster.

- **Fire and Rescue:** Provides Fire Service Mutual Aid. Coordinates fire service resources. Cal OES Fire and Rescue Branch coordinates the Urban Search and Rescue (US&R) program.

- **Management:** Coordinates the state emergency management organization in compliance with SEMS, the ESA, relevant regulations, and Executive Orders. Leads planning and intelligence gathering; plans the mobilization and demobilization of personnel, equipment, and facilities; and compiles records and data specific to an event from all sections of the SOC or REOCs.

- **Resources:** Provides expertise in area of procurement.

- **Hazardous Materials:** Coordinates statewide implementation of hazardous materials (hazmat) accident prevention and emergency response programs for all types of hazmat incidents (including those arising from accidental and intentional acts) and threats. Provides strategically-located hazmat response resources, and helps coordinate mutual aid response to major hazmat emergencies and disasters.

  Fire/Rescue Branch Special Operations and Hazardous Materials Section coordinates with state and local emergency managers for technical assistance and for mutual aid including additional hazmat response teams. For major hazmat releases or emergencies Cal OES helps facilitate and coordinate the request for state and federal resources to assist local government agencies conducting stabilization and mitigation operations.

  Cal OES is responsible for overseeing the Regional Railroad Accident Preparedness and Immediate Response Force, including providing regional and onsite response capabilities in the event of a release of hazardous materials from a railcar or a railroad accident or disaster involving railcars designated to transport hazardous material commodities.

  The Cal OES Radiological Preparedness Unit maintains emergency plans and coordinates with local, state, and federal agencies in the event of a radiological incident or emergency. The programs include nuclear power plants (NPP), radiological transportation, spill/release reporting, and the Navy nuclear program.

- **Utilities:** Coordinates with the California Utilities Emergency Association (CUEA) to manage utilities issues during an emergency.

- **Law Enforcement:** Provides Law Enforcement, Search and Rescue, and Coroner Mutual Aid programs.

- **Recovery:** Manages state disaster recovery programs, providing Public Assistance (PA) and Individual Assistance (IA) to local governments, State agencies, and the public. The California Disaster Assistance Act (CDAA) authorizes the Director of the Cal OES to administer a disaster assistance program, which provides disaster-related state financial assistance for some or all of the following: emergency protective measures, debris removal, permanent restoration of public facilities and infrastructure, and certain mitigation measures.

CDAA is also available for certain private nonprofit organizations for the extraordinary cost of performing an essential community service at the request of an affected local agency. In addition, CDAA cost shares with various federal partners, including the Federal Emergency Management Agency (FEMA), the Natural Resources Conservation Service (NRCS), and the Federal Highway Administration (FHWA).

- **Public Information:** Lead State agency in support of public information prior to, during, and following a disaster. Provides accessible information to the public during emergencies through the media at its Joint Information Center in Sacramento and through public information officers at the REOCs.

- **Volunteer and Donations Management:** Manages the donations of goods and services as part of the IA Program.

- **Cybersecurity**: Manages and operates the California Cybersecurity Integration Center (Cal-CSIC), whose mission is to reduce the likelihood and severity of cyber incidents that may significantly compromise the security and resilience of California's economy, its critical infrastructure, and information resources. Cal OES executes this mission together with CDT, CHP and CMD. Cal-CSIC is comprised of two key functional components: (1) cyber threat analysis; and, (2) dissemination and coordination of incident response and recovery operations (hereinafter "recovery"). Specifically, Cal-CSIC coordinates the identification, prevention, or mitigation of cyber threats, as well as coordinates the response to, and recovery from significant cyber incidents. Cal-CSIC coordinates the production of threat assessments for the State, and facilitates analysis and exchange of cyber threat information with all affected organizations.

  The California Cybersecurity Task Force is a statewide partnership comprised of key stakeholders, subject matter experts, and cybersecurity professionals from California's public sector, private industry, academia, and law enforcement. The Task Force serves as an advisory body to the State of California Senior Administration Officials in matters related to Cybersecurity. By fostering a culture of cybersecurity through education, information sharing, workforce development and economic growth, the Task Force hopes to advance the State's cybersecurity and position California as a national leader and preferred location for cyber business, education, and research.

14.16. GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

- **Recovery:** Offers technical assistance to local governments regarding land use and planning policy analyses, and policy development to assist with recovery from emergencies and natural disasters, and to avoid and mitigate impacts from future disasters. Also provides legislative analysis and bilingual personnel.

14.16.1. CALIFORNIA VOLUNTEERS

California Emergency Support Functions: Serves as the lead for coordinating emergency activities related to volunteer and donations management. Assigns primary and support roles to those State agencies and departments with the authorities, capabilities, and resources necessary to meet emergency needs.

- **Construction and Engineering:** Identifies and connects personnel, teams, and/or equipment to clear debris and stabilize hillsides. Assists with the restoration of facilities damaged by disasters by providing labor support.

- **Care and Shelter:** Supports family services agencies, engages ESF partner agencies, and works with Cal OES related to Voluntary Organizations Active in Disasters (VOAD) personnel to assist in response activities.

- **Hazardous Materials:** Supports the Office of Spill Prevention and Response in the coordination of volunteer resources for oil spills.

- **Volunteer and Donations Management:** Coordinates volunteer activities related to disaster response and recovery, including necessary training, equipment, and transportation provisions. Coordinates monetary and in-kind donations during times of disaster in cooperation with Cal OES. Supports family services agencies, engages ESF-17 partner agencies, and works with Cal OES related to VOAD personnel to assist in response activities.

14.17. CALIFORNIA LABOR AND WORKFORCE DEVELOPMENT AGENCY (LWDA)

Consisting of nine departments and boards, during an emergency, the agency can call upon its personnel and resources to address issues related to industrial and labor services. Below are the departments with primary or support roles in this plan.

14.17.1. AGRICULTURAL LABOR RELATIONS BOARD (ALRB)

- **Resources:** Provides bilingual staff (Spanish) with interviewing and investigative skills for translation services.

14.17.2. DEPARTMENT OF INDUSTRIAL RELATIONS (DIR)

- **Construction and Engineering:** Inspects and reports damage to elevators and related conveyances and proposes methods and estimates for their repair. Provides technical expertise in construction and demolition safety, chemical and hazardous material exposures, and personal protective equipment selection and use.

- **Public Health and Medical:** Provides the technical expertise of industrial hygienists and safety engineers and assures emergency response workers are protected from potential exposures to hazardous materials and operations are in compliance with safety regulations.

- **Hazardous Materials:** Provides technical expertise in chemical and hazardous material exposures, personal protective equipment selection and use, and exposure assessments for emergency response workers. Provides the technical expertise of industrial hygienists and safety engineers and assures emergency response workers are protected from potential exposures to hazardous materials, and operations are in compliance with safety regulations. Maintains a list of Division of Occupational Safety and Health certified asbestos consultants and registered asbestos contractors who can oversee and carry-out the proper removal of asbestos to ensure all health precautions are followed. Provides advice on workers compensation claims.

14.17.3.EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)

- **Management:** Activates Continuity of Operations Plan (COOP) to maintain Unemployment and Disability Insurance, collects and distributes employer taxes, and provides workforce services assistance during an emergency or disaster.

- **Resources:** Provides Unemployment Insurance, Disability Insurance, and employer assistance related to disasters. Can identify potential personnel resource pools, enlist personnel, and determine personnel shortages. Provides job search assistance, online job listings, workshops, information on wages and trends, and other employment and training services at local America's Job Center of California. May provide limited skilled staff in emergency management, personnel screening, processing, acquisition, contracting, IT, procurement, facilities management, legal, public relations, and labor relations.

- **Food & Agriculture:** Supports H-2A Program (temporary agricultural workers) by providing assistance and outreach to agriculture employers and laborers impacted by an emergency or disaster.

- **Law Enforcement:** May provide limited peace officer staff and special investigators with peace officers status.

- **Recovery:** Confers with federal and state emergency resource officials to determine the need for laborers during recovery and name personnel that can be trained to serve as Project Officers or specialists during disaster recovery managed by Cal OES.

- **Public Information:** In coordination with Cal OES, develops and releases information about the emergency or disaster as it pertains to functions supported by the EDD. Notifies staff, news media, legislative, and public officials, appropriate agencies, and organizations impacted by the emergency.

14.18. LOTTERY COMMISSION

- **Resources:** Provides specialized staff (e.g., investigators, building security, information technology, video and multi-media specialists, and multi-lingual staff) and the use of internal messaging systems throughout the state along with the use of the Lottery's web portal to link to Cal OES. The Lottery can also provide office space, administrative supplies, vehicles, and open space for the staging of personnel, equipment, or vehicles.

14.19. CALIFORNIA NATIONAL GUARD (CNG)

- **Transportation:** Can provide both ground and air transportation assets to transport personnel and cargo. Specialized materials handling equipment, along with off-road and high-water mass transport capabilities are also available. Can provide convoy support centers for military and partner agencies, and provide bulk fuel draw and partner agency distribution fuel points.

- **Communications:** Incident Commander's Command Control Communications and Computers Unit (IC4U). Provides Incident Commanders with interoperable communications equipment and technical support personnel.

- **Construction and Engineering:** Can assist with debris clearance from essential government and military facilities, roadways, and bridges, and advise Cal OES on the use of military equipment and supplies to support these activities. Can provide technical and engineering assessments through its FSIVA (Full Spectrum Integrated Vulnerability Assessment) Team and Air National Guard Civil Engineering units.

- **Fire and Rescue:** Assists with air and land capabilities in wildland and forest fire suppression efforts and assists civil authorities to protect life and property from wildland fires. Can provide both rotary and fixed wing aircraft, along with trained search and rescue teams.

- **Management:** Provides Cal OES with a Military Resource Advisory Group (MRAG) which serves as a clearinghouse for the tiered-management of Military Support to Civilian Authorities (state military)/Defense Support to Civilian Authorities (state, regional, and federal military). Facilitates coordination and economy of effort within the National Guard and DOD/military community to augment the Incident Command System response.

- **Care and Shelter:** Can provide limited mass care facilities, along with limited all weather shelter space throughout California at CNG armories.

- **Resources:** Can provide limited Incident Aerial Assessment and Awareness (IAA) of disaster areas. Can also provide water purification and water distribution, along with warehouse distribution management and state staging area management.

- **Public Health and Medical:** Assists in patient movement and evacuation including aero medical evacuation. Can also provide water purification teams with unique capabilities.

- **Hazardous Materials:** Can develop and maintain plans for radiological protection information. Develops radiological protection plans and procedures. Deploys Civil Support Teams with robust Weapons of Mass Destruction characterization, modeling, and reach-back capabilities to national laboratories. Makes Civil Support Teams' mobile laboratories available. Assists with mass decontamination with Chemical Biological Radiological Nuclear and High Yield Explosives Enhanced Reaction Force Package (CERFP).

- **Law Enforcement:** Assists law enforcement by providing security forces (SECFOR), air transportation, rotary wing aircraft, and other unique capabilities. Provides technical advice for Explosive Ordnance Disposal. Assists with evacuating threatened populations, provides transportation (land and air) and, in coordination with the EMSA, can assist with managing casualty evacuation from hospitals and casualty collection points.

- **Cyber Security:** Responds and aids recovery of cyber incidents that may significantly compromise the security and resilience of California's critical infrastructure, and information resources. Performs information security assessments (ISA), cyber threat analysis and incident response and/or cyber recovery operations.

14.20. OFFICE OF THE INSPECTOR GENERAL (OIG)

- **Law Enforcement:** Provides personnel with peace officer powers to support law enforcement operations.

14.21. CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

- **Transportation:** Evaluates transportation emergency preparedness and ensures that regulated transportation companies develop emergency plans that are complete and kept current. Inspects rail track to verify it is safe for use and provide advice to Cal OES on railroad technical transportation matters, information on railroad status, and help coordinate CPUC-regulated transportation resources and services, as needed. Provides lists of commercial and private transport available.

- **Utilities:** Requires utilities companies to develop emergency plans and reviews those plans. Provides lists of utility offices and contacts, oversees the activities of privately-owned natural gas and electric utilities, and provides safety and other engineers as well as public information staff to assist in recovery efforts. Evaluates major outages affecting 10 percent or more of customers, identifies ways to prevent major transmission outages and adopt standards for utility distribution systems.

14.22. CALIFORNIA STATE BOARD OF EQUALIZATION (BOE)

- **Recovery:** Provides advice and assistance to business and property owners in obtaining emergency tax relief for disaster losses.

14.23. STATE TRANSPORTATION AGENCY (CALSTA)

Coordinates the policies and programs of the state transportation entities to achieve the state's mobility, safety, and air quality objectives of the transportation system. During an emergency, the agency can call upon its personnel and resources to address issues related to transportation and public safety, and support interagency aviation coordination.

California Emergency Support Functions: Serves as the lead agency for coordinating emergency activities related to transportation. The agency may assign primary and support roles to those departments within the agency that have the authorities, capabilities, and resources necessary to meet emergency needs.

14.23.1. CALIFORNIA HIGHWAY PATROL (CHP)

- **Transportation:** Secures routes, regulates traffic flow, and enforces safety standards for evacuation and re-entry into evacuated areas in coordination with local agencies. Coordinates interstate highway movement on regulated routes with adjoining states. Establishes highway safety regulations consistent with location, type, and extent of emergency conditions. Supports Caltrans with traffic route re-establishment, and continues emergency traffic regulation and control procedures as required. The Commissioner acts as the Director of the State Motor Transport Division during a war emergency.

- **Public Health and Medical:** May provide helicopters classified as EMS Air Rescue aircraft, which include advanced life support and basic life support capability**.**

- **Hazardous Materials:** Has incident command responsibilities for hazardous materials or explosive device incidents on state-owned or state-leased facilities. Has incident command responsibility for any hazardous materials incident occurring on the state's freeways, state-owned bridges, and highways in unincorporated areas and assists with hazardous materials incidents occurring within cities upon request. Tracks radiological materials incident data.

- **Law Enforcement:** Assists State agencies with the development and implementation of employee and facility protection plans. Assists local jurisdictions to maintain law and order, and implements emergency traffic regulation and control procedures in coordination with local agencies. Assists local law enforcement agencies with establishing evacuation routes and assists with the evacuation process as requested. Enforces highway safety regulations and provides security for the SOC and other state facilities. Coordinates with federal security agencies for the transportation of federally-provided pharmaceuticals and medical supplies within or through the state. May provide escort and on-site security for other deployed state medical assets, including public health and medical personnel in the field and mobile field

hospitals upon request. Provides information to State agencies related to terrorism. Provides information regarding the status of state transportation routes. Provides mutual aid to local jurisdictions upon request for assistance.

- **Cybersecurity**: Investigate computer/cyber-crimes involving State agencies. CHP will serve as the lead agency for any threat response activities consisting of criminal investigation and evidence preservation of all reported crimes involving state computer and computer-related assets. CHP will coordinate investigative efforts with federal, state, and local law enforcement partners and for operational issues with the California Cyber Security Integration Center (Cal-CISC) and the California Department of Technology (CDT). The CHP will coordinate information sharing directly with responding agencies and work to protect assets, mitigate vulnerabilities, reduce impacts of, and recover from cyber incidents. CHP will disseminate appropriate information identified during investigations that may pose risks or vulnerabilities to State agencies through the Cal-CISC.

14.23.2.CALIFORNIA DEPARTMENT OF MOTOR VEHICLES (DMV)

- **Resources:** Works with State agencies to develop procedures for issuing identification to registered disaster service workers. Assists with vehicle identification and emergency licensing.

14.23.3.CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

- **Transportation:** Provides assessments of transportation infrastructure and traffic conditions. Assesses damage to highway systems and establishes route priorities during recovery efforts. Operates as liaison with the FHWA regarding the status of the state highway system. Provides transportation policies and guidance as needed. Coordinates State agency plans, procedures, and preparations for route recovery, traffic regulation, and interagency aviation support. Develops routing and directions for the movement of incident victims out of an impacted area and the delivery of necessary personnel and medical supplies to local medical facilities and shelters. Prepares road information and displays. Assists CHP and local traffic agencies regulate and provide signage and staff for roadblocks.

- **Construction and Engineering:** Assists DGS with contacting construction material manufacturers, wholesalers, and general contractors having construction-related equipment for use in emergency operations. Provides engineering expertise and other technical assistance and service to support local public work agencies, Cal OES, and other state and local government agencies. Provides engineering expertise, access to utilities within structures and facilities in state right-of-way. Provides funding assistance to local agencies for remedying structural seismic design deficiencies of public bridges on local streets and roads in California through the statewide Seismic Safety Retrofit Program. Provides situational awareness to responders within 10 to 15 minutes following an earthquake through the software system ShakeCast.

- **Fire and Rescue:** Supports the fire-fighting efforts, either directly in the field through lane closures, or through mission tasking from Cal OES.

- **Hazardous Materials:** Restores contaminated highways and other transportation facilities under departmental jurisdiction.

14.24. BOARD OF GOVERNORS, CALIFORNIA COMMUNITY COLLEGES

- **Care and Shelter:** Organizes education/college facilities related to Emergency Medical Services and Emergency Welfare Services.

- **Resources:** Provides emergency teams, facilities planners, and information technology (IT) personnel throughout a response, foreign language instructors to assist, and facilities planners and IT personnel for the period of recovery.

- **Public Health and Medical:** Coordinates education/college facilities to support emergency medical services and emergency welfare services. Directs districts and colleges to utilize facilities, transportation options, miscellaneous supplies, and equipment during emergencies and supports emergency medical services and emergency welfare services.

- **Public Information:** Supports the Cal OES Public Information Office in providing information and instructions, and coordinates with the education community to conduct exercise activities.

14.25. UNIVERSITY SYSTEMS

The University of California (UC) and California State University (CSU) are the two statewide university systems that are each overseen by independent governing boards. The UC system consists of (10) campuses and five (5) major medical centers. UC has 238,700 students and 198,300 faculty/staff. UC campuses are generally clustered in the greater San Francisco Bay Area, Central Valley, and in Southern California.

The CSU system has twenty-three (23) campuses covering the entire state from Humboldt County to San Diego County. CSU has 460,000 students and 47,000 faculty/staff. Both UC and CSU are highly decentralized systems whose campuses function independently.

- **Fire and Rescue:** UC operates two full-time fire departments at Davis and Santa Cruz.

- **Management:** When there is an immediate threat or actual emergency, the campuses implement emergency plans and take actions to mitigate or reduce the emergency threat. Actions may include deploying field-level emergency response personnel and activating emergency operations centers, and issuing orders to protect the campus community and general public.

- **Law Enforcement:** All UC campuses have fully sworn police departments. All CSU campuses also have fully sworn police departments.

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15. Plan Administration

15.1. PLAN DEVELOPMENT AND MAINTENANCE

The State Emergency Plan is developed under the authority conveyed to the Governor in accordance with the California Emergency Services Act (ESA).[35] Cal OES is charged with keeping the plan current. Cal OES will review the SEP, supporting annexes and plans on a three year cycle. Revised drafts of the SEP will be completed in coordination with State agencies, local governments, and relevant stakeholders as needed.

15.2. ADMINISTRATIVE PRACTICES

Adherence to standard administrative and financial procedures is critical to ensure resources and funding to support response and recovery activities are accurately tracked and accounted for. Standard administrative and financial practices also support proper cost accounting in order to obtain any reimbursement provided through disaster assistance programs.

Emergency response agencies must develop and integrate administrative and financial procedures into their standard operating procedures (SOP). It is essential all financial management officials follow the administrative practices required by state law and the SEMS Guidelines.

Part III of the *SEMS Guidelines* documents California's Emergency Management administrative practices.

15.3. STANDARD OPERATING PROCEDURES (SOP)

The State Emergency Plan is intended to be used in conjunction with city, county, operational area, and State agency plans and associated SOPs. Where supporting plans are inconsistent with the general principles described in the State Emergency Plan, the state plan will supersede supporting plans.

SOPs provide the purpose, authorities, duration, and details for the preferred method or performing a single function or a number of interrelated functions in a uniform manner. SOPs must also facilitate the need to carry out actions under conditions that may not have been anticipated when the SOP was drafted. For example, it may be necessary to consider alternative procedures that solve a problem in order to perform in a more time-efficient or cost-efficient way. It is clear, therefore, some procedures may need to be suspended, relaxed, or made operational under threat of disaster. However, such action should be carefully considered and the consequences should be projected realistically.

15.4. ESSENTIAL RECORDS RETENTION

Maintenance of administrative records continues through all phases of an emergency. In preparation for an emergency, training and appropriate forms are provided, including procedures for all units of potential response organization. During a response, entities ensure adequate documentation is collected through the Documentation Unit at the Incident and EOC, for activities of personnel, use of equipment, and expenditures for the emergency. Finally, after the response has been terminated, records should be protected and maintained for audit purposes. The Cost Unit is responsible for cost recovery records and assisting in collecting any missing information. Problem areas are identified, corrective measures taken, and employees retrained in the proper, updated procedures.

15.5. AFTER ACTION REPORTS AND CORRECTIVE ACTIONS

SEMS regulations require Cal OES, in cooperation with involved state and local government agencies, to complete an After Action Report (AAR) for each Governor proclaimed emergency. After an incident or from a gubernatorial proclamation, the AAR is completed within 120 days. Furthermore, SEMS regulations under Title XIX, Division 2, Chapter 1, Section 2450(a) requires any federal, state, or local jurisdiction proclaiming or responding to a Local Emergency for which the governor has declared a *State of Emergency* or *State of War Emergency* shall complete and transmit an AAR to Cal OES within 90 days of the close of the emergency period.

The identification of corrective actions is critical to the AAR process. Jurisdictions are strongly encouraged to make recommendations for correcting problems noted in the response/recovery effort, or during exercises and training. Corrective actions may encompass anything from detailed recommendations for improving individual agency plans and procedures to broader system-wide improvements. Corrective actions are assigned to relevant stakeholders and tracked to ensure the identified problem has been addressed.

16. Attachments

Below is a list of attachments referenced in the plan:

- Attachment A – Authorities and References
- Attachment B – Acronyms and Abbreviations
- Attachment C – Glossary
- Attachment D – Emergency Plan Crosswalk
- Attachment E – California Warning System
- Attachment F – Distribution List
- Attachment G - End Notes

16.1. ATTACHMENT A – AUTHORITIES AND REFERENCES

California Emergency Services Act

California Disaster Assistance Act

California Code of Regulations, Title 19

California Disaster and Civil Defense Master Mutual Aid Agreement

Standardized Emergency Management System Guidelines

Standardized Emergency Management System Approved Course of Instruction

Governor's Executive Order W-9-91

Administrative orders (prepared under the authority of the Governor's Executive Order W-9-91)

State of Emergency Orders and Regulations (regulations made in advance of a State of Emergency - Standby Orders)

State of War Emergency Orders and Regulations (regulations made in advance of a State of War Emergency - Standby Orders)

Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended

California-Federal Emergency Operations Center Guidelines: Integrating Federal Disaster Response Assistance with California's Standardized Emergency Management System

National Incident Management System

National Response Framework

National Disaster Recovery Framework

Code of Federal Regulations Title 44

California Multi-Hazard Mitigation Plan

California Catastrophic Incident Base Plan: Concept of Operations

Bay Area Earthquake Plan

Southern California Catastrophic Earthquake Response Plan

California Cascadia Subduction Zone Earthquake and Tsunami Response Plan

16.2. ATTACHMENT B – ACRONYMS AND ABBREVIATIONS

Acronyms and Abbreviations	
AA	Administering Agency
AAA	Area Agencies on Aging
AAR	After Action Report
ABC	California Department of Alcoholic Beverage Control
ACI	Approved Course of Instruction
ADA	Americans with Disabilities Act
AKDN	Aga Khan Development Network
ALRB	California Agricultural Labor Relations Board
AO	Administrative Order
AP	Action Plan
ARB	Air Resources Board
ARC	American Red Cross
BCDC	San Francisco Bay Conservation and Development Commission
BCSHA	California Business, Consumer Services and Housing Agency
BOE	California State Board of Equalization
BPH	Board of Parole Hearings
CA-ESF	California Emergency Support Function
CAHAN	California Health Alert Network
CAL FIRE	California Department of Forestry and Fire Protection
CalARP	California Accidental Release Prevention Program
CalEPA	California Environmental Protection Agency
CalHFA	California Housing and Finance Agency
CalHR	California Department of Human Resources
California ISO	California Independent Systems Operator
Cal OES	California Governor's Office of Emergency Services
CalPERS	California Public Employee Retirement System
CalRecycle	California Department of Resources Recycling and Recovery
CalSTA	California State Transportation Agency
Caltrans	California Department of Transportation
CalVET	California Department of Veteran's Affairs
CalWARN	California Water and Wastewater Agency Response Network
CALWAS	California Warning System
CAP	Corrective Action Planning
CARES	California Animal Response Emergency System
CBO	Community Based Organization

Acronyms and Abbreviations	
CCC	California Conservation Corps
CCR	California Code of Regulations
CDA	California Department of Aging
CDAA	California Disaster Assistance Act
CDC	Centers for Disease Control and Prevention
CDCR	California Department of Corrections and Rehabilitation
CDE	California Department of Education
CDFW	California Department of Fish and Wildlife
CDFA	California Department of Food and Agriculture
CDI	California Department of Insurance
CDPH	California Department of Public Health
CDRF	California Disaster Recovery Framework
CDSS	California Department of Social Services
CDT	California Department of Technology
CalEOC	California Emergency Operations Center
CEQA	California Environmental Quality Act
CERFP	Enhanced Response Force Package
CERT	Community Emergency Response Team
CFR	Code of Federal Regulations
CHHS	California Health and Human Services Agency
CHIP	Children's Health Insurance Program
CHP	California Highway Patrol
CHRIS	California Historic Resource Information System
CIP	Critical Infrastructure Protection
CISN	California Integrated Seismic Network
CIWMB	California Integrated Waste Management Board
CLERS	California Law Enforcement Radio System
CLETS	California Law Enforcement Telecommunications System
CNG	California National Guard
CNRA	California Natural Resources Agency
COG	Continuity of Government
CONOPS	Concept of Operations
COOP	Continuity of Operations
CPUC	California Public Utilities Commission
CSA	Corrections Standards Authority
CSD	California Department of Community Services and Development
CSP	California Department of Parks and Recreation (California State Parks)

Acronyms and Abbreviations	
CST	Civil Support Team
CSTI	California Specialized Training Institute
CSU	California State University
CSWC	California State Warning Center
CUEA	California Utilities Emergency Association
CUPA	Certified Unified Program Agencies
DBO	California Department of Business Oversight
DCA	California Department of Consumer Affairs
DDS	California Department of Developmental Services
DFEH	California Department of Fair and Housing Employment
DFI	California Department of Financial Institutions
DFW	California Department of Fish and Wildlife
DGS	California Department of General Services
DHCS	California Department of Health Care Services
DHS	California Department of Homeland Security
DHV	Disaster Healthcare Volunteer
DIR	California Department of Industrial Relations
DMA 2000	Disaster Mitigation Act of 2000
DMHC	California Department of Managed Health Care
DMV	California Department of Motor Vehicles
DOC	California Department of Conservation
DOC	Department Operations Center
DOF	California Department of Finance
DOJ	California Department of Justice
DOR	California Department of Rehabilitation
DPR	California Department of Pesticide Regulation
DRC	Disaster Recovery Center
DSH	California Department of State Hospitals
DTSC	California Department of Toxic Substances Control
DWR	California Department of Water Resources
DWRL	California Drinking Water and Radiation Laboratory
EAS	Emergency Alert System
EDD	California Employment Development Department
EDIS	Emergency Digital Information Service
EDO	Executive Duty Officer
EFAP	Emergency Food Assistance Program
EMAC	Emergency Management Assistance Compact
EMMA	Emergency Management Mutual Aid

Acronyms and Abbreviations	
EMSA	Emergency Medical Services Authority
EO	Executive Order
EOC	Emergency Operations Center
EOP	Emergency Operations Plan
ERD	Emergency Resource Directory
ESA	California Emergency Services Act
ESF	Emergency Support Function
FAD	Foreign Animal Disease
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRESCOPE	Firefighting Resources of California Organized for Potential Emergencies
FIRM	Flood Insurance Rate Map
FMA	Flood Mitigation Assistance
FMAG	Fire Management Assistance Grant Program
FPPC	Fair Political Practices Commission
FSIVA	Full Spectrum Integrated Vulnerability Assessment
FTB	California Franchise Tax Board
GDP	Gross Domestic Product
GIS	Geographical Information System
GO-Biz	California Governor's Office of Business and Economic Development
GovOps	California Government Operations Agency
HAZ MAT	Hazardous Materials
HCD	California Department of Housing and Community Development
HMA	Hazard Mitigation Assistance
HMBP	Hazardous Materials Business Plan
HMEP	Hazardous Materials Emergency Preparedness Program
HMGP	Hazard Mitigation Grant Program
HMO	Health Maintenance Organization
HSEEP	Homeland Security Exercise and Evaluation Program
HUD	U.S. Housing and Urban Development
IA	Individual Assistance
IAA	Incident Aerial Assessment and Awareness
IAP	Incident Action Plan
IC	Incident Commander
ICP	Incident Command Post
ICS	Incident Command System

Acronyms and Abbreviations	
IDAT	Insurance Disaster Assessment Team
IDE	Initial Damage Estimate
IHP	Individuals and Households Program
IMAT	Incident Management Assistance Team
IND	Improvised Nuclear Device
IOF	Initial Operating Facility
ISA	Information Security Assessments
IST	Incident Support Team
IT	Information Technology
JFO	Joint Field Office
JIC	Joint Information Center
JIS	Joint Information System
LAC	Local Assistance Center
LHMP	Local Hazard Mitigation Planning
MAC	Multiagency Coordination
MAC Group	Multiagency Coordination Group
MACS	Multiagency Coordination System
MMAA	California Disaster and Civil Defense Master Mutual Aid Agreement
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MRAG	Military Resource Advisory Group
MRC	Medical Reserve Corps
MRMIP	Major Risk Medical Insurance Program
MS-ISAC	Multi-State Information Sharing and Analysis Center
NAWAS	National Warning System
NDRF	National Disaster Recovery Framework
NEIC	National Earthquake Information Center
NEPA	National Environmental Policy Act
NGO	Non-Governmental Organization
NIMS	National Incident Management System
NIMSCAST	National Incident Management System Compliance Assistance Support Tool
NOAA	National Oceanic and Atmospheric Administration
NPP	Nuclear Power Plants
NRCS	National Resources Conservation Service
NRF	National Response Framework
NTWC	National Tsunami Warning Center
NWS	National Weather Service

Acronyms and Abbreviations	
OA	Operational Area
OAG	California Office of the Attorney General
OAL	California Office of Administrative Law
OASIS	Operational Area Satellite Information System
OEHHA	California Office of Environmental Health Hazard Assessment
OIG	California Office of the Inspector General
OPR	California Governor's Office of Planning and Research
OSHPD	California Office of Statewide Health Planning and Development
OSI	Office of Systems Integration
PA	Public Assistance
PDA	Preliminary Damage Assessment
PDM	Pre-Disaster Mitigation
PIO	Public Information Officer
PNP	Private Nonprofit
POST	Commission on Peace Officer Standards and Training
RADEF	Radiological Defense
RDD	Radiation Dispersal Device
REOC	Regional Emergency Operations Center
RRCC	Regional Response Coordination Center
SAM	State Administrative Manual
SAP	State Safety Assessment Program
SAR	Search and Rescue
SAR	Suspicious Activity Reporting
SBA	U.S. Small Business Administration
SCO	State Coordinating Officer
SCUBA	Self-Contained Underwater Breathing Apparatus
SEMS	Standardized Emergency Management System
SEP	State of California Emergency Plan
SHMP	State of California Enhanced Multi-hazard Mitigation Plan
SLC	California State Lands Commission
SOC	State Operation Center
SOP	Standard Operating Procedure
SPB	California State Personnel Board
SSGP	State Supplemental Grant Program
STAC	State Threat Assessment Center
STAS	State Threat Assessment System
SWAT	Special Weapons and Tactics
SWP	State Water Project

Acronyms and Abbreviations	
SWRCB	State Water Resources Control Board
TLO	Terrorism Liaison Officer
UC	University of California
UC	Unified Command
UCG	Unified Coordination Group
UCS	Unified Coordination Staff
URT	Unified Reporting Tool
USACE	U.S. Army Corps of Engineers
US&R	Urban Search and Rescue
US-CERT	United States Computer Emergency Readiness Team
USDA	U.S. Department of Agriculture
USGS	United States Geological Survey
VAL	Voluntary Agency Liaison
VCB	California Victims Compensation Board
VOAD	Voluntary Organizations Active in Disasters
WUI	Wildland-Urban Interface

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16.3. ATTACHMENT C – GLOSSARY

Action Plan (AP): See **EOC Action Plan** and **Incident Action Plan**.

Activation: 1) Initial activation of an EOC may be accomplished by a designated official of the emergency response agency that implements SEMS as appropriate to accomplish the agency's role in response to the emergency. 2) An event in the sequence of events normally experienced during most emergencies.

After Action Report (AAR): A report that examines response actions, application of SEMS, modifications to plans and procedures, training needs, and recovery activities. AARs are required under SEMS after any emergency that requires a gubernatorial state of emergency proclamation. Local government AARs must be submitted to Cal OES within 90 days.

Agency: A division of government with a specific function offering a particular kind of assistance. In the Incident Command System (ICS), agencies are defined either as jurisdictional (having statutory responsibility for incident management) or as assisting or cooperating (providing resources or other assistance). Governmental organizations are most often in charge of an incident, though in certain circumstances private sector organizations may be included. Additionally, Non-Governmental Organizations (NGO) may be included to provide support.

All-Hazards: Any incident, natural or human-caused, that warrants action to protect life, property, environment, public health or safety, and minimize disruptions of government, social, or economic activities.

California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA): An agreement entered into by and between the State of California, its various departments and agencies, and the various political subdivisions, municipal corporations, and public agencies of the State of California to assist each other by providing resources during an emergency. Mutual Aid occurs when two or more parties agree to furnish resources and facilities and to render services to each other in response to any type of disaster or emergency.

California Emergency Support Functions (CA-ESF): The CA-ESFs are a grouping of State agencies, departments and other stakeholders with similar functional activities/responsibilities whose responsibilities lend to improving the state's ability to collaboratively prepare for, effectively mitigate, cohesively respond to, and rapidly recover from any emergency. CA-ESFs unify a broad-spectrum of stakeholders with various capabilities, resources, and authorities to improve collaboration and coordination for a particular discipline. They also provide a framework for the state government to support regional and community stakeholder collaboration and coordination at all levels of government and across overlapping jurisdictional boundaries.

California Emergency Services Act (ESA): An Act within the California Government Code to ensure preparations within the state will be adequate to deal with natural, human-caused, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property,

and the natural resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state.

Catastrophe: Any natural or human-caused incident, including terrorism that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions.

Command: The act of directing, ordering, or controlling by virtue of explicit statutory, regulatory, or delegated authority.

Command/Management: Command is responsible for the directing, ordering, and/or controlling of resources at the field response level. Management is responsible for overall emergency policy and coordination at the SEMS EOC levels.

Command Post: See **Incident Command Post.**

Command Staff: The Command Staff at the SEMS Field Level consists of the Information Officer, Safety Officer, and Liaison Officer. They report directly to the Incident Commander. They may have an assistant or assistants, as needed. These officers are also found at the EOC levels in SEMS and they report directly to the EOC Director and comprise the Management Staff. They may have an assistant or assistants, as needed.

Common Terminology: Normally used words and phrases to establish consistency - avoids the use of different words/phrases for same concepts. Allows diverse incident management and support organizations to work together across a wide variety of incident management functions and hazard scenarios.

Communications: Process of the transmission of information through verbal, written, or symbolic means.

Continuity of Government (COG): Activities that address the continuance of constitutional governance. COG planning aims to preserve and/or reconstitute the institution of government and ensure that a department or agency's constitutional, legislative, and/or administrative responsibilities are maintained. This is accomplished through succession of leadership, the pre-delegation of emergency authority, and active command and control during response and recovery operations.

Continuity of Operations (COOP): Planning should be instituted, including all levels of governments, across the private sector and non-governmental organizations as appropriate, to ensure the continued performance of core capabilities and/or critical government operations during any potential incident.

Coordination: The process of systematically analyzing a situation, developing relevant information, and informing appropriate command authority of viable alternatives for selection of the most effective combination of available resources to meet specific objectives. The coordination process (which can be either intra- or inter-agency) does not involve dispatch

actions. However, personnel responsible for coordination may perform command or dispatch functions within the limits established by specific agency delegations, procedures, legal authority, etc. Multiagency or interagency coordination is found at all SEMS levels.

Coordination Center: Term used to describe any facility used for the coordination of agency or jurisdictional resources in support of one or more incidents.

Corrective Actions: Implementing procedures based on lessons learned from actual incidents or from training and exercises.

Cost Unit: Functional unit within the Finance/Administration Section responsible for tracking costs, analyzing cost data, making cost estimates, and recommending cost-saving measures.

Critical Infrastructure: Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

Cyber Threat: An act or threat that poses potentially devastating disruptions to critical infrastructure, including essential communications such as voice, email, and Internet connectivity

Cybersecurity: The protection of data and systems in networks that are connected to the Internet, including measures to protect critical infrastructure services. These services may include essential communications such as voice, email, and Internet connectivity.

Demobilization: The orderly, safe, and efficient return of an incident resource to its original location and status.

Department Operations Center (DOC): An Emergency Operations Center (EOC), specific to a single department or agency where the focus is on internal agency incident management and response. They are often linked to and, in most cases, are physically represented in a combined agency EOC by authorized agent(s) for the department or agency.

Disaster: A sudden calamitous emergency event bringing great damage, loss, or destruction.

Division: The partition of an incident into geographical areas of operation. Divisions are established when the number of resources exceeds the manageable span of control of the Operations Section Chief. A Division is located within the ICS organization between the Branch and resources in the Operations Section.

Documentation Unit: Functional unit within the Planning/Intelligence Section responsible for collecting, distributing, recording, and safeguarding all documents relevant to an incident or within an EOC.

Emergency: Any incident(s), whether natural or human-caused, that requires responsive action to protect life or property. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an emergency means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Emergency Management Assistance Compact (EMAC): A congressionally-ratified organization that provides form and structure to interstate mutual aid. Through EMAC, a disaster-affected state can request and receive assistance from other member states quickly and efficiently, resolving two key issues upfront: liability and reimbursement.

Emergency Management Community: The stakeholders in emergency response in California including the residents of California, the private sector and federal, state, local, and tribal governments.

Emergency Operations Center (EOC): The physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOC may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., federal, state, regional, tribal, city, county), or some combination thereof.

Emergency Operations Plan (EOP): The ongoing plan maintained by various jurisdictional levels for responding to a wide variety of potential hazards.

Emergency Resource Directory (ERD): A directory containing information on agency or organization personnel emergency certifications and qualifications, and vendor and support organization supplies, equipment, etc. that may be needed during an emergency. Supplies and equipment can include such items as potable water tenders, portable toilets, heavy equipment, prepared meals, bulk foodstuffs, cots, rental office trailers, etc. To the extent possible and when appropriate, equipment should be typed by capability according to a common and accepted typing schematic. Emergency resource directories should only include those items likely to be needed by the preparing agency or organization in the performance of their duties and should not attempt to include everything that may be needed in any emergency.

Emergency Response Agency: Any organization responding to an emergency, or providing mutual aid support to such an organization, whether in the field, at the scene of an incident, or to an operations center.

Emergency Response Personnel: Personnel affiliated with or sponsored by emergency response agencies.

EOC Action Plan: The plan developed at SEMS EOC levels, which contains objectives, actions to be taken, assignments, and supporting information for the next operational period.

Essential Facilities: May include facilities such as law enforcement, fire, emergency operations centers, schools, medical facilities, and other resources that have a role in an effective and coordinated emergency response.

Evacuation: Organized, phased and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas and their reception and care in safe areas.

Federal: Of or pertaining to the federal government of the United States of America.

Finance/Administration Section: The section responsible for all administrative and financial considerations surrounding an incident or EOC activation.

Function: Function refers to the five major activities in ICS: Command, Operations, Planning, Logistics and Finance/Administration. The same five functions are also found at all SEMS EOC Levels. At the EOC, the term Management replaces Command. The term function is also used when describing the activity involved, (e.g., the planning function). A sixth function, Intelligence/Investigations, may be established, if required, to meet emergency management needs.

Group: Established to divide the incident management structure into functional areas of operation. Groups are composed of resources assembled to perform a special function not necessarily within a single geographic division. Groups, when activated, are located between branches and resources in the Operations Section. See **Division**.

Hazard: Something that is potentially dangerous or harmful, often the root cause of an unwanted outcome.

Incident: An occurrence or event, natural or human-caused, which requires a response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, tsunamis, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

Incident Action Plan (IAP): An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods. At the SEMS EOC Level, it is called the EOC Action Plan.

Incident Base: The location at which primary Logistics functions for an incident are coordinated and administered. The Incident Command Post may be co-located with the base. (Incident name or other designator will be added to the term base.)

Incident Command: Responsible for overall management of the incident and consists of the Incident Commander, either single or unified command, and any assigned supporting staff.

Incident Commander (IC): The individual responsible for all incident activities, including the development of strategies and tactics, and the ordering and the release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.

Incident Command Post (ICP): The field location where the primary functions are performed. The ICP may be co-located with the incident base or other incident facilities.

Incident Command System (ICS): A standardized on-scene emergency management construct specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents. It is used for all kinds of emergencies, and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.

Information: Pieces of raw, unanalyzed data that identifies persons, evidence, events; or illustrates processes that specify the occurrence of an event. May be objective or subjective, and is intended for both internal analysis and external (news media) application. Information is the "currency" that produces intelligence.

Intelligence: Product of an analytical process that evaluates information collected from diverse sources, integrates the relevant information into a cohesive package, and produces a conclusion or estimate. Information must be real, accurate, and verified before it becomes intelligence for planning purposes. Intelligence relates to the specific details involving the activities of an incident or EOC, and current and expected conditions, and how they affect the actions taken to achieve operational period objectives. Intelligence is primarily intended for internal use and not for public dissemination.

Intelligence/Investigations: Intelligence gathered within the Intelligence/Investigations function is information that either leads to the detection, prevention, apprehension, and prosecution of criminal activities (or the individual(s) involved) including terrorist incidents or information that leads to determination of the cause of a given incident (regardless of the source) such as public health events or fires with unknown origins. This is different from the normal operational and situational intelligence gathered and reported by the Planning Section.

Interoperability: Allows emergency management/response personnel and their affiliated organizations to communicate within and across agencies and jurisdictions via voice, data, or video-on-demand, in real-time, when needed and when authorized.

Joint Information Center (JIC): A facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media. Public information officials from all participating agencies should co-locate at the JIC.

Joint Information System (JIS): Integrates incident information and public affairs into a cohesive organization designed to provide consistent, coordinated, accurate, accessible, timely, and complete information during crisis or incident operations. The mission of the JIS is to provide a structure and system for developing and delivering coordinated interagency messages; developing, recommending, and executing public information plans and strategies on behalf of the IC; advising the IC concerning public affairs issues that could affect a response effort; and controlling rumors and inaccurate information that could undermine public confidence in the emergency response effort.

Jurisdiction: A range or sphere of authority. Public agencies have jurisdiction at an incident related to their legal responsibilities and authority. Jurisdictional authority at an incident can be political or geographical (e.g., federal, state, tribal, and local boundary lines) or functional (e.g., law enforcement, public health).

Key Resources: Any publicly or privately controlled resources essential to the minimal operations of the economy and government.

Liaison: A form of communication for establishing and maintaining mutual understanding and cooperation.

Liaison Officer: A member of the Command Staff (Management Staff at the SEMS EOC Levels) responsible for coordinating with representatives from cooperating and assisting agencies or organizations. At SEMS EOC Levels, reports directly to the EOC Director and coordinates the initial entry of Agency Representatives into the Operations Center and also Provide guidance and support for them as required.

Local Government: According to federal code[36] a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government; an Indian tribe or authorized tribal entity, or in Alaska a Native village or Alaska Regional Native Corporation; a rural community, unincorporated town or village, or other public entity.

Logistics: Providing resources and other services to support incident management.

Logistics Section: The section responsible for providing facilities, services, and material support for an incident or EOC activation.

Management Staff: See **Command Staff**.

Mitigation: Provide a critical foundation in the effort to reduce the loss of life and property from natural and/or human-caused disasters by avoiding or lessening the impact of a disaster and providing value to the public by creating safer communities. Mitigation seeks to fix the cycle of disaster damage, reconstruction, and repeated damage. These activities or actions, in most cases, will have a long-term sustained effect.

Mobilization: The process and procedures used by all organizations - federal, state, tribal, and local - for activating, assembling and transporting all resources that have been requested to respond to or support an incident.

Mobilization Center: An off-emergency location where emergency services personnel and equipment may be temporarily located, pending assignment to emergencies, released, or reassigned.

Multiagency or Inter-Agency Coordination: The participation of agencies and disciplines involved at any level of the SEMS organization working together in a coordinated effort to facilitate decisions for overall emergency response activities, including the sharing of critical resources and the prioritization of incidents.

Multiagency Coordination Group (MAC Group): Typically, administrators/executives, or their appointed representatives, who are authorized to commit agency resources and funds, are brought together and form MAC Groups. MAC Groups may also be known as multiagency committees, emergency management committees, or as otherwise defined. It can provide coordinated decision-making and resource allocation among cooperating agencies and may establish the priorities among incidents, harmonize agency policies, and provide strategic guidance and direction to support incident management activities.

Multiagency Coordination System(s) (MACS): Multiagency coordination systems provide the architecture to support coordination for incident prioritization, critical resource allocation, communications systems integration, and information coordination. The elements of multiagency coordination systems include facilities, equipment, personnel, procedures, and communications. Two of the most commonly used elements are EOC and MAC Groups. These systems assist agencies and organizations responding to an incident.

Mutual Aid Agreements and/or Assistance Agreements: Written or oral agreements between and among agencies/organizations and/or jurisdictions that provide a mechanism to quickly obtain emergency assistance in the form of personnel, equipment, materials, and other associated services. The primary objective is to facilitate rapid, short-term deployment of emergency support prior to, during, and/or after an incident.

Mutual Aid Coordinator: An individual at the local government, Operational Area, Region or State Level that is responsible to coordinate the process of requesting, obtaining, processing, and using mutual aid resources. Mutual Aid Coordinator duties will vary depending upon the mutual aid system.

Mutual Aid Region: A mutual aid region is a subdivision of Cal OES established to assist in the coordination of mutual aid and other emergency operations within a geographical area of the state, consisting of two or more Operational Areas.

National: Of a nationwide character, including the federal, state, tribal, and local aspects of governance and policy.

National Incident Management System (NIMS): Provides a systematic, proactive approach guiding government agencies at all levels, the private sector, and non-governmental organizations to work seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life or property and harm to the environment.

National Response Framework (NRF): A guide to how the nation conducts all-hazards incident management.

Non-governmental Organization (NGO): An entity with an association based on the interests of its members, individuals, or institutions. It is not created by a government, but it may work cooperatively with the government. Such organizations serve a public purpose, not a private benefit. Examples of NGO include faith-based charity organizations and the American Red Cross.

Officer: 1) The ICS title for the personnel responsible for the Command Staff (Management Staff at EOC) positions of Safety, Liaison, and Public Information. 2) One who holds an office or post; especially one elected or appointed to a position of authority or trust in a corporation, government, institution, etc.

Operational Area (OA): An intermediate level of the state emergency organization, consisting of a county and all other political subdivisions within the geographical boundaries of the county.

Operational Period: The time scheduled for executing a given set of operation actions, as specified in the Incident Action Plan. Operational periods can be of various lengths, although usually last 12-24 hours.

Operations Section: The section responsible for all tactical incident operations and implementation of the Incident Action Plan. In ICS, it normally includes subordinate branches, divisions, and/or groups. At the SEMS EOC levels, the section is responsible for the coordination of operational activities. The Operations Section at an EOC contains branches, groups, or units necessary to maintain appropriate span of control.

Organization: Any association or group of persons with like objectives. Examples include, but are not limited to, governmental departments and agencies, private sector, and/or non-governmental organizations.

Planning Section: The section responsible for the collection, evaluation, and dissemination of operational information related to the incident or EOC activities and for the preparation and

documentation of the IAP or EOC action plan respectively. This section also maintains information on the current and forecasted situation and on the status of resources assigned to the incident or EOC activation.

Political Subdivisions: Includes any city, city and county, county, tax or assessment district, or other legally authorized local governmental entity with jurisdictional boundaries.

Preparedness: A continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination during incident response. Within NIMS, preparedness focuses on the following elements: planning, procedures and protocols, training and exercises, personnel qualification and certification, and equipment certification.

Prevention: Actions to avoid an incident or to intervene to stop an incident from occurring. Prevention involves actions to protect lives and property. It involves applying intelligence and other information to a range of activities that may include such countermeasures as deterrence operations; heightened inspections; improved surveillance and security operations; investigations to determine the full nature and source of the threat; public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and, as appropriate, specific law enforcement operations aimed at deterring, preempting, interdicting or disrupting illegal activity, and apprehending potential perpetrators and bringing them to justice.

Private Sector: Organizations and entities that are not part of any governmental structure. The private sector includes for-profit and not-for-profit organizations, formal and informal structures, commerce and industry.

Protocols: Sets of established guidelines for actions (which may be designated by individuals, teams, functions, or capabilities) under various specified conditions.

Public Information: Processes, procedures, and systems for communicating timely, accurate, and accessible information on the incident's cause, size, and current situation; resources committed; and other matters of general interest to the public, responders, and additional stakeholders (both directly affected and indirectly affected).

Public Information Officer (PIO): A member of the Command Staff (Management Staff at the SEMS EOC Levels) responsible for interfacing with the public and media and/or with other agencies with incident-related information requirements.

Recovery: The development, coordination, and execution of service- and site-restoration plans; the reconstitution of government operations and services; individual, private–sector, non-governmental, and public assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.

Recovery Plan: A plan developed to restore the affected area or community.

Regional Emergency Operations Center (REOC): Facilities found at Cal OES Administrative Regions. REOC provide centralized coordination of resources among Operational Areas within their respective regions and between the Operational Areas and the State Level.

Reimbursement: Provide a mechanism to recoup funds expended for incident-specific activities.

Resource Management: Efficient emergency management and incident response requires a system for identifying available resources at all jurisdictional levels to enable timely and unimpeded access to resources needed to prepare for, respond to, or recover from an incident. Resource management under NIMS includes mutual aid agreements and assistance agreements; the use of special federal, state, tribal, and local teams; and resource mobilization protocols.

Resources: Personnel and major items of equipment, supplies, and facilities available or potentially available for assignment to incident operations and for which status is maintained. Resources are described by kind and type and may be used in operational support or supervisory capacities at an incident or at an EOC.

Response: Activities that address the short-term, direct effects of an incident. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of EOP and of mitigation activities designed to limit the loss of life, personal injury, property damage, and other unfavorable outcomes. As indicated by the situation, response activities include applying intelligence and other information to lessen the effects or consequences of an incident; increased security operations; continuing investigations into nature and source of the threat; ongoing public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and specific law enforcement operations aimed at preempting, interdicting, or disrupting illegal activity, and apprehending actual perpetrators and bringing them to justice.

Response Personnel: Includes federal, state, territorial, tribal, sub-state regional and local governments, private sector organizations, critical infrastructure owners, and operators, NGO and all other organizations and individuals who assume an emergency management role. Also known as an Emergency Responder.

Safety Officer: A member of the Command Staff (Management Staff at the SEMS EOC Levels) responsible for monitoring incident operations and advising the IC on all matters relating to operational safety, including the health and safety of emergency responder personnel. The Safety Officer may have assistants.

Section: 1) The organizational level having responsibility for a major functional area of incident or EOC Management, (e.g., Operations, Planning, Logistics, Finance/Administration) and Intelligence/Investigations (if established). The section is organizationally situated between the branch and the Incident Command. 2) A separate part or division as: a. A portion of a book, treatise, or writing. b. A subdivision of a chapter. c. A division of law.

Situation Report: Often contains confirmed or verified information regarding the specific details relating to the incident.

Span of Control: The number of resources for which a supervisor is responsible, usually expressed as the ratio of supervisors to individuals. (Under NIMS, an appropriate span of control is between 1:3 and 1:7, with optimal being 1:5.)

Special District: A unit of local government (other than a city, county, or city and county) with authority or responsibility to own, operate, and maintain systems, programs, services, or projects [(as defined in California Code of Regulations (CCR) Section 2900(s)] for purposes of natural disaster assistance. This may include joint powers authority established under Section 6500 et. seq. of the California Code of Regulations.

Stafford Act: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) establishes the programs and processes for the federal government to provide disaster and emergency assistance to states, local governments, tribal nations, individuals, and qualified private nonprofit organizations. The provisions of the Stafford Act cover all hazards including natural disasters and terrorist events. Relevant provisions of the Stafford Act include a process for Governors to request federal disaster and emergency assistance from the President. The President may declare a major disaster or emergency.

Staging Area: Established on an incident for the temporary location of available resources. A Staging Area can be any location on an incident in which personnel, supplies, and equipment can be temporarily housed or parked while awaiting operational assignment.

Standard Operating Procedure (SOP): Complete reference document or an operations manual that provides the purpose, authorities, duration, and details for the preferred method of performing a single function or a number of interrelated functions in a uniform manner.

Standardized Emergency Management System (SEMS): A system required by California Government Code and established by regulations for managing response to multiagency and multijurisdictional emergencies in California. SEMS consists of five organizational levels, which are activated as necessary: Field Response, Local Government, Operational Area, Region, and State.

Standardized Emergency Management System (SEMS) Guidelines: The SEMS guidelines are intended to assist those responsible for planning, implementing, and participating in SEMS.

Standardized Emergency Management System (SEMS) Regulations: Regulations establishing the Standardized Emergency Management System (SEMS) based upon the Incident Command System (ICS) adapted from the system originally developed by the Firefighting Resources of California Organized for Potential Emergencies (FIRESCOPE) program including those currently in use by State agencies, the Multiagency Coordination System (MACS) as developed by FIRESCOPE program, the Operational Area concept, and the Master Mutual Aid Agreement and related mutual aid systems. Regulations are found at Title XIX. Division 2. Chapter 1, Section 2400 et. seq.

State: When capitalized, refers to any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and any possession of the United States. See Section 2 (14), Homeland Security Act of 2002, Public Law 107−296, 116 Stat. 2135 (2002).

State Operations Center (SOC): The SOC is operated by the California Governor's Office of Emergency Services at the State Level in SEMS. It is responsible for centralized coordination of state resources in support of the three Regional Emergency Operations Centers (REOC). It is also responsible for providing updated situation reports to the Governor and Legislature.

Strategy: The general plan or direction selected to accomplish incident objectives.

System: An integrated combination of people, equipment, and processes that work in a coordinated manner to achieve a specific desired output under specific conditions.

Technical Assistance: Support provided to state, tribal, and local jurisdictions when they have the resources, but lack the complete knowledge and skills needed to perform a required activity (such as mobile-home park design or hazardous material assessments).

Technical Specialists: Personnel with special skills that can be used anywhere within the SEMS organization. No minimum qualifications are prescribed, as technical specialists normally perform the same duties during an incident that they perform in their everyday jobs and they are typically certified in their fields or professions.

Terrorism: Under the Homeland Security Act of 2002, terrorism is defined as activity that involves an act dangerous to human life or potentially destructive of critical infrastructure or key resources; is a violation of the criminal laws of the United States or of any state or other subdivision of the United States in which it occurs; and is intended to intimidate or coerce the civilian population, or influence or affect the conduct of a government by mass destruction, assassination, or kidnapping. See Section 2 (15), Homeland Security Act of 2002, Public Law 107−296, 116 Stat. 2135 (2002).

Threat: An indication of possible violence, harm, or danger.

Tools: Those instruments and capabilities that allow for the professional performance of tasks, such as information systems, agreements, doctrine, capabilities, and legislative authorities.

Tribal: Any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native Village as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 stat. 688) [43 U.S.C.A. and 1601 et seq.].

Type: 1) An ICS resource classification that refers to capability. Type 1 is generally considered to be more capable than Types 2, 3, or 4, respectively, because of size, power, capacity, or (in the case of incident management teams) experience and qualifications. 2) A class, kind, or group

sharing one or more characteristics; category. 3) A variety or style of a particular class or kind of things.

Unified Command: An ICS application used when more than one agency has incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the UC, often the senior person from agencies and/or disciplines participating in the UC, to establish a common set of objectives and strategies and a single IAP.

Unit: The organizational element with functional responsibility for a specific incident planning, logistics, or finance/administration activity.

Vital Records: The essential agency records needed to meet operational responsibilities under national security emergencies or other emergency or disaster conditions (emergency operating records), or to protect the legal and financial rights of the Government and those affected by Government activities (legal and financial rights records).

Volunteer: For purposes of NIMS, a volunteer is any individual accepted to perform services by the lead agency (which has authority to accept volunteer services) when the individual performs services without promise, expectation, or receipt of compensation for services performed. See 16 U.S.C. 742f(c) and 29 CFR 553.101.

16.4. ATTACHMENT D – EMERGENCY PLAN CROSSWALK

This checklist of emergency plan elements, known as a "crosswalk" was developed to assist planners in ensuring the fundamental SEMS and NIMS content is included in emergency operations plans. The current version of the crosswalk can be found on the Cal OES website (www.caloes.ca.gov).

Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
FOREWORD SECTION		
1. Foreword/Preface/Introduction: Provide a foreword, preface, or introduction that explains why the plan was developed and how the plan is to be used (SEMS EOP Element). This section should describe that the plan is flexible enough to use in all emergencies and will facilitate response and short-term recovery activities (NIMS EOP Element).	v, 1	
2. Plan Concurrence: Provide evidence that the assigned emergency agencies are in agreement with how the plan describes their tasks. This may be in the form of a letter of concurrence or a sign-off sheet (SEMS EOP Element).	v, 31	
3. Letter of Approval: Provide evidence of a dated letter of promulgation or resolution from the governing board (SEMS EOP Element).	iii	
PART I: BASIC PLAN		
4. Table of Contents: Where significant parts of the plan are located by page number and subsection of the plan (SEMS EOP Element).	x	
5. Purpose: Describe the EOP purpose (NIMS EOP Element).	5	
6. Scope: Define the scope of preparedness and incident management activities necessary for the jurisdiction (NIMS EOP Element).	5	
7. Authorities and References: Describe the EOP authorities and references (NIMS EOP Element). Provides authorities for the plan and its development. Identifies the references used in developing the plan (SEMS EOP Elements).	152	
8. Situation and Assumptions: Describe the EOP situation and assumptions (NIMS EOP Element). Summarizes the Jurisdictional Hazard Analysis. Includes a description of potential hazards. This could be in a narrative with maps, schematic, or matrix indicating severity potential, affected population estimates, frequency, and geographical characteristics of the jurisdiction. This and other relevant information should be included to provide a rationale for prioritizing emergency preparedness actions for specific hazards (SEMS EOP Element).	7	
9. Organization, Roles, and Responsibilities: Describe organizational structures, roles and responsibilities, policies and protocols for providing emergency support (NIMS EOP Element).	21, 30, 107	

Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
10. Standardized Emergency Management System (SEMS) based Emergency Organization: Identify agency roles and responsibilities during disaster situations and includes an emergency organization chart. Indicate how the jurisdiction fulfills the five SEMS sections (Management, Plans/Intelligence, Operations, Logistics, and Finance/Administration) (SEMS EOP Element).	20	
11. Emergency Operations Center Organization: Describe the roles and responsibilities of agencies and departments in the EOC, including who is responsible for ensuring the readiness of the EOC (SEMS EOP Element).	20, 26, 28	
12. Involvement of special districts, private, and nonprofit agencies: Identify emergency responsibilities of special districts, private, and volunteer agencies, and their roles in the EOC, REOC, Incident Command Post, or other emergency facility (SEMS EOP Element).	33, 37	
13. Essential Facilities-Primary and Alternate EOC: Indicate the location of both the primary and alternate EOC and what conditions would cause the alternate EOC to be activated (SEMS EOP Element).	30	
14. Essential Facilities-Activation/Deactivation of EOC: Indicates how, when, and by whom, the Emergency Operations Center will be activated and deactivated (SEMS EOP Element).	24	
15. Essential Facilities-Alternate Government Facilities: Indicate an alternate seat of government to serve as government offices for performing day-to-day functions and a facility that could serve as an alternate emergency operations center (EOC) (SEMS EOP Element).	30	
16. Essential Facilities-Americans with Disabilities Act: Identify how shelter facilities, evacuation/movement, warning, etc. procedures accommodate the provisions of the Americans with Disabilities Act (SEMS EOP Element).	42	
17. Continuity of Government: Provide persons by position to succeed key government officials and members of the emergency management organization. Also indicate the level and duration of authority these individuals would assume (Gov. Code Sec. 8560) (SEMS EOP Element).	88	
18. Vital Record Retention: Indicate how vital records are to be protected in the event of a disaster. Most data storage systems have a back-up system. Identify the system, archiving schedules, and who has responsibility for its maintenance (SEMS EOP Element).	148	
19. Concept of Operations: Describes the EOP concept of operations (NIMS EOP Element). Includes the principles and methods used to carry out emergency operations, including the provision of emergency services by government agencies (Gov. Code Sec. 8560).	49, 77	
20. Notification and Mobilization: Describe how resources are mobilized and managed (Gov. Code Sec. 8560). Include methods to contact emergency response personnel during normal and after hours. This may be in the form of an alert list (SEMS EOP Format).	52, 67	
21. SEMS Coordination Levels: Indicate how the jurisdiction coordinates between the different SEMS levels (field, local, operational areas, region, state), how information is exchanged, how and when multi/inter-agency coordination and unified command are used. The Operational Area agreement should also be referenced; and the plan should indicate who performs the Operational Area responsibilities	20, 63	

Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
(SEMS EOP Element).		
22. Incident Command System (ICS): Indicate how ICS will be used in the field. This should include the interface between the field Incident Command Post and the EOC. It should also indicate methods of integrating state and federal field activities into local emergency management operations (SEMS EOP Element). Pre-designate jurisdictional and/or functional area representatives to the IC or UC whenever possible (NIMS EOP Element).	20, 50, 67	
23. Field/EOC Communications and Coordination: Indicate how the EOC will coordinate and communicate with field units, operational areas, regions and other entities, including the use of the Response Information Management System (SEMS EOP Element).	50, 67	
24. Field/EOC Direction and Control Interface: Describe the direction and control relationship between the field responders (ICS) and the EOC. This should include the reporting of pertinent information (SEMS EOP Element).	50, 67	
25. Field Coordination with Department Operations Centers (DOC) and EOCs: Include the use and coordination of DOCs and how they fit into the emergency management organization (SEMS EOP Element).	21, 50, 55	
26. Mutual Aid: Include a general description of mutual aid system and processes (Gov. Code Sec. 8560) (SEMS EOP Element).	59	
27. Emergency Proclamations: Indicate the purpose and process of emergency declarations (include samples) (SEMS EOP Element).	71	
28. Public Information: Include pre-incident and post-incident public awareness, education, and communications plans and protocols (NIMS EOP Element) (Gov. Code Sec. 8560).	56	
29. Recovery Overview: Include a general recovery concept of operations (SEMS EOP Element).	77	
30. Recovery Organization: Provide a description of the recovery organization along with a diagram (SEMS EOP Element).	77	
31. Recovery Damage Assessment: Describe the damage assessment organization and responsibilities (SEMS EOP Element).	77	
32. Recovery Documentation: Describe the documentation process (SEMS EOP Element).	77	
33. Recovery After-action Reports: Include the Cal OES After-Action Questionnaire (SEMS EOP Element).	149	
34. Recovery Disaster Assistance: Describe the different programs, their purpose, restrictions, and application process. Include Public Assistance, Individual Assistance, and Hazard Mitigation Grant programs (SEMS EOP Element).	40, 81, 82	
35. Administration and Logistics: Describe the administration and logistics of the EOP (NIMS EOP Element).	148	
36. Emergency Plan Maintenance and Distribution: Describe EOP development and maintenance (NIMS EOP Element). Who maintains the emergency plan? What is the process? Detail schedules for	148	

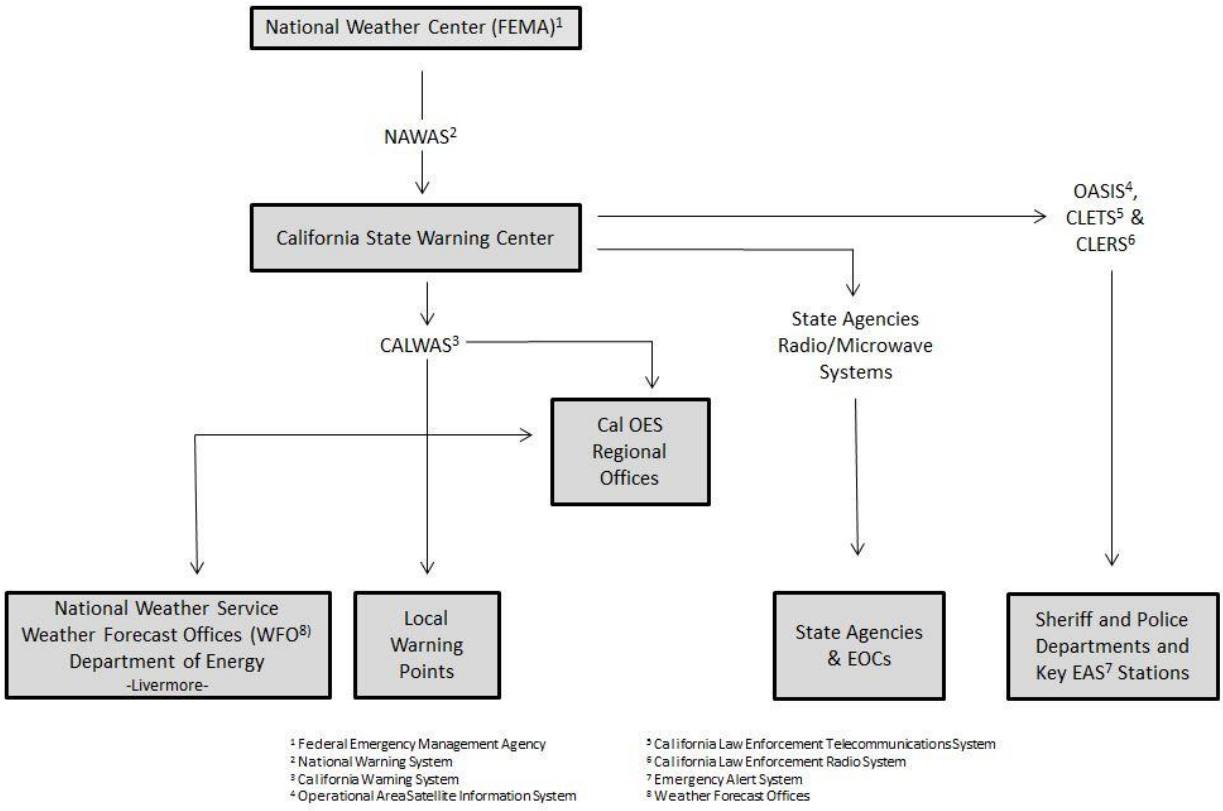
Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
modifications, revision list, distribution list, and who has responsibility for ensuring the plan is kept up-to-date (SEMS EOP Element).		
37. Standard Operating Procedures (SOP) Development: Ensure emergency response agencies develop and maintain SOPs. Indicate in the plan the relationship and purpose of SOPs to the plan (SEMS EOP Element).	148	
38. Training and Exercises: Describe the training and exercise programs for the jurisdiction, including who has personal responsibility for the programs. Training should include EOP orientation, SEMS training, a full-scale exercise, and other training as deemed necessary (SEMS EOP Element).	44	
PART II: FUNCTIONAL ANNEXES		
39. Functional Annexes: Include functional annexes (NIMS EOP Element). Suggested annexes address the five emergency management functions. They may be as simple as a checklist or as complex as to include function-based concepts of operation.	3, 88, 94	
40. Management Section: Include the following activities and responsibilities (SEMS EOP Element): • Overall EOC management • Public information assignment • Identification of a media center • Rumor control • Public inquires • Provision for public safety communications and policy • Identification of a Safety Officer • Facility security • Agency liaison • State/Federal field activity coordination	20, 28	
41. Operations Section: Include the following activities and responsibilities (SEMS EOP Element): • General warning • Special population warning • Authority to activate Emergency Alert System • Inmate evacuation • Traffic direction and control • Debris removal • Evacuation • Evacuation and care for pets and livestock • Access control • Hazardous materials management • Coroner operations • Emergency medical care • Transportation management • Crisis counseling for emergency responders • Urban search and rescue • Disease prevention and control • Utility restoration • Flood operations • Initial damage assessments	20, 28	

Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
• Safety assessments • Shelter and feeding operations • Emergency food and water distribution		
42. Planning/Intelligence Section: Include the following activities and responsibilities (SEMS EOP Element): • Situation status • Situation analysis • Information display • Documentation • Advance planning • Technical services • Action planning • Demobilization	20, 29	
43. Logistics Section: Include the following activities and responsibilities (SEMS EOP Element): • Field incident support • Communications support • Transportation support • Personnel • Supply and procurement • Resource tracking • Sanitation services • Computer support	20, 29	
44. Finance/Administration Section: Include the following activities and responsibilities (SEMS EOP Element): • Fiscal management • Timekeeping • Purchasing • Compensation and claims • Cost recovery • Travel request, forms, and claims	20, 29	
PART III: APPENDICES		
45. Appendices: Include hazard-specific appendices (NIMS EOP Element).	3	
46. Hazardous Materials: Incorporate or reference the Hazardous Materials Area Plan requirements in the emergency plan. (SEMS EOP Element).	36, 43	
47. Dams: If there are dams in the area, the plan should have or reference inundation maps that indicate what areas could flood, the time the flood wave arrives at specific locations, and when the water will recede. Operational information necessary to carry-out an evacuation of all potentially flooded areas should be indicated for each dam. The information required for each dam should include shelter locations, location of critical facilities such as government center hospitals, nursing homes, schools, day care centers, etc. Each dam evacuation plan should also indicate other facilities with large concentrations of people with disabilities, persons that lack their own transportation, or persons requiring special assistance (SEMS EOP Element).	43	

Emergency Operations Plan Crosswalk Element	Page Where Located	Reviewer Comment or Initials
48. Other Hazards Specific to the Jurisdiction: The threat of domestic terrorism has gained the interest of emergency managers in recent years. Most of the state is prone to damages from earthquakes. Some coastal jurisdictions could be affected by tsunamis. Some alpine areas of the state are prone to avalanches and some to volcanic activity. The EOP should address response activities that are specific to all hazards that pose a threat to the jurisdiction (SEMS EOP Element).	43	
49. Glossary of Terms: Include a glossary of terms (NIMS EOP Element) that includes all the terms used throughout the plan (SEMS EOP Element).	161	
50. Resources: Identify sources for materials and supplies internally and externally (SEMS EOP Element).	65, 93	
51. Contact List: Include a list of agencies and personnel not internal to the organization, but critical to emergency operations (SEMS EOP Element).	52	
52. Supporting Documentation: Include material necessary to self-certify compliance with SEMS. This should include evidence of training, planning, exercises, and performance (SEMS EOP Element).	44	

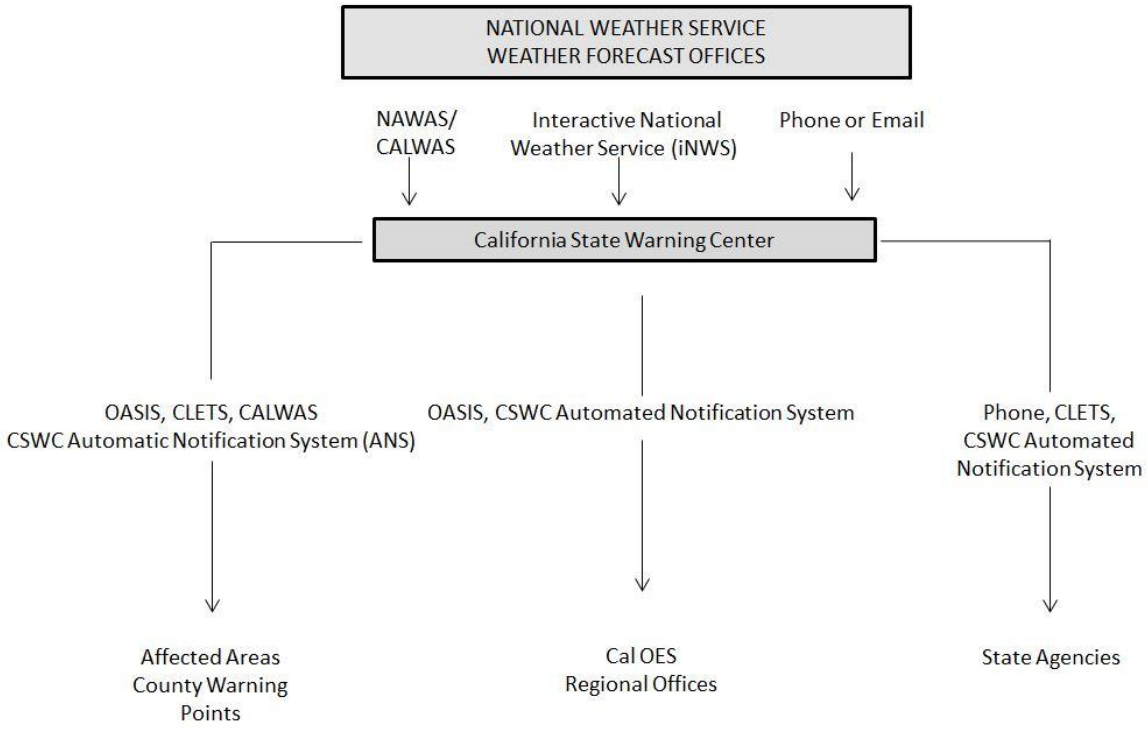
16.5. ATTACHMENT E – CALIFORNIA WARNING SYSTEM

E.1 - California Warning System

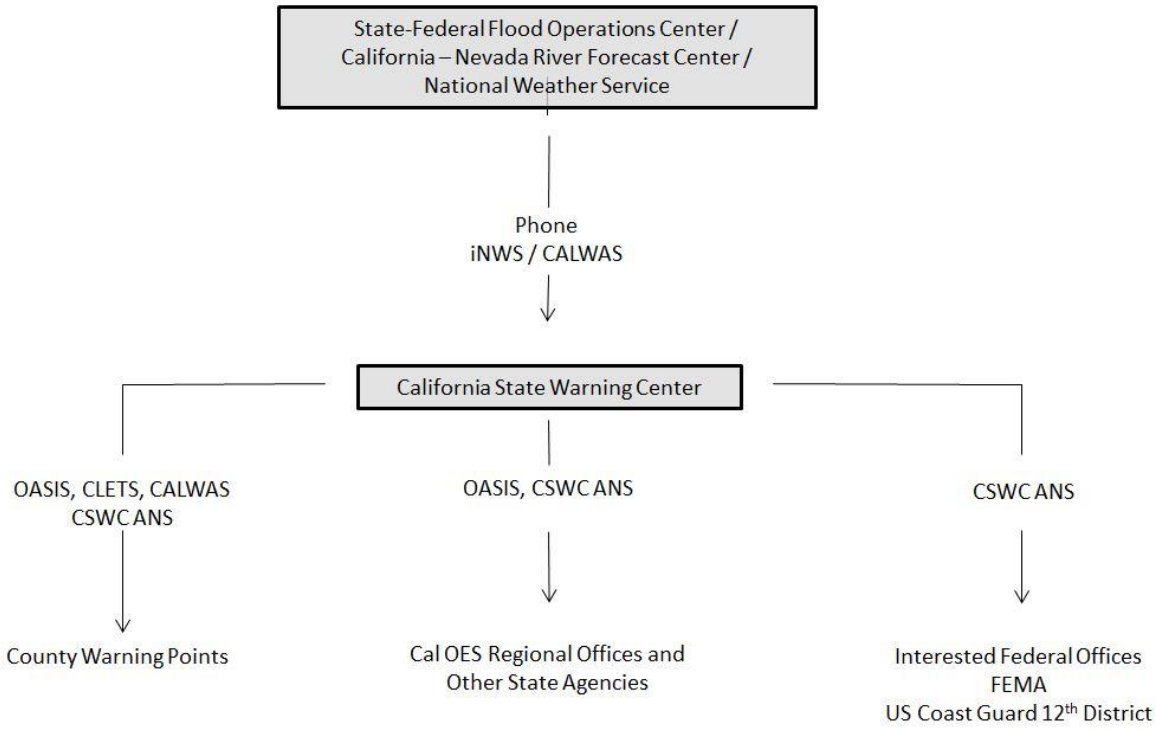


[1] Federal Emergency Management Agency
[2] National Warning System
[3] California Warning System
[4] Operational Area Satellite Information System
[5] California Law Enforcement Telecommunications System
[6] California Law Enforcement Radio System
[7] Emergency Alert System
[8] Weather Forecast Offices

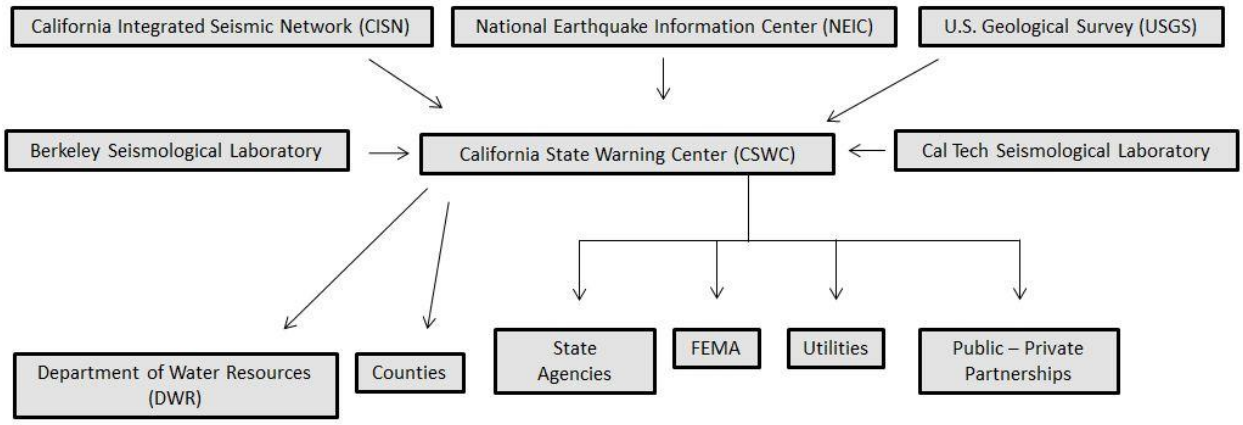
E.2 – Severe Weather Warning



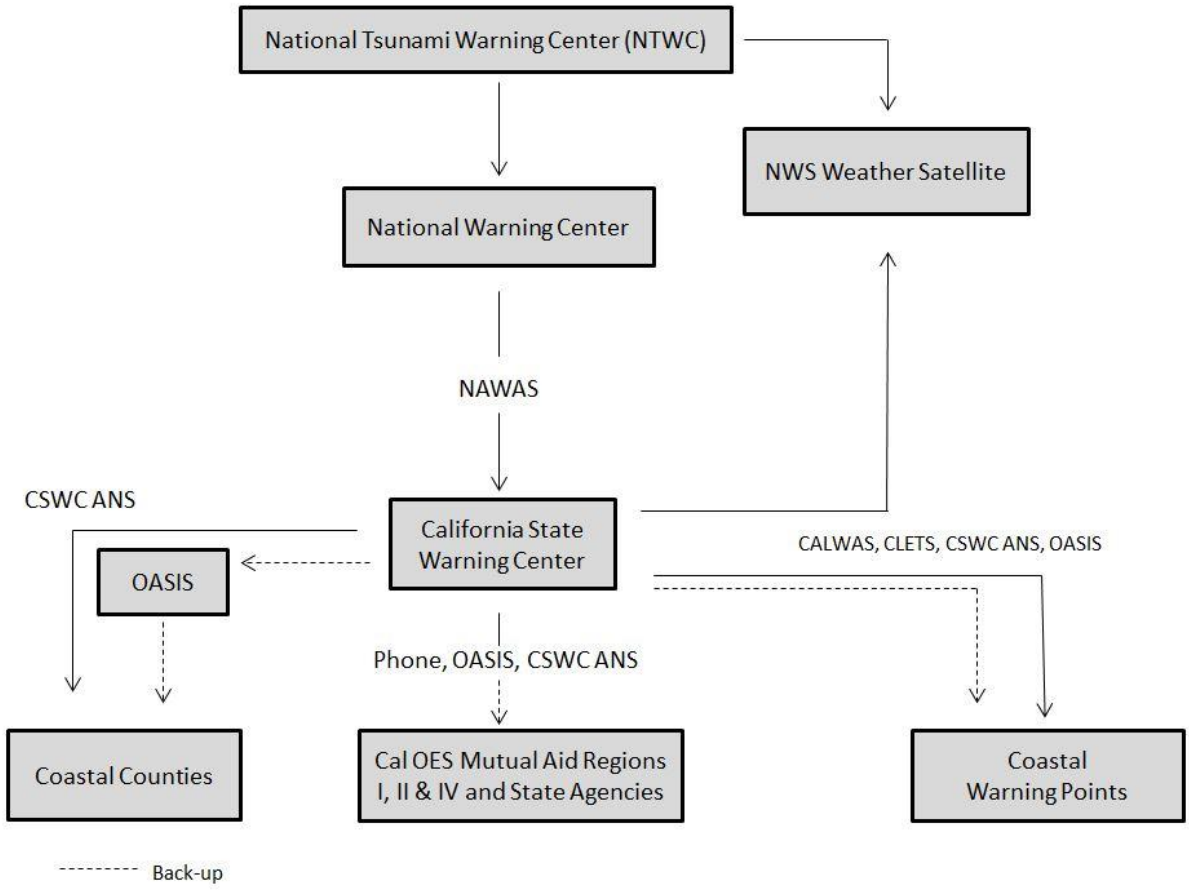
E.3 – Flood Forecasts and Warnings



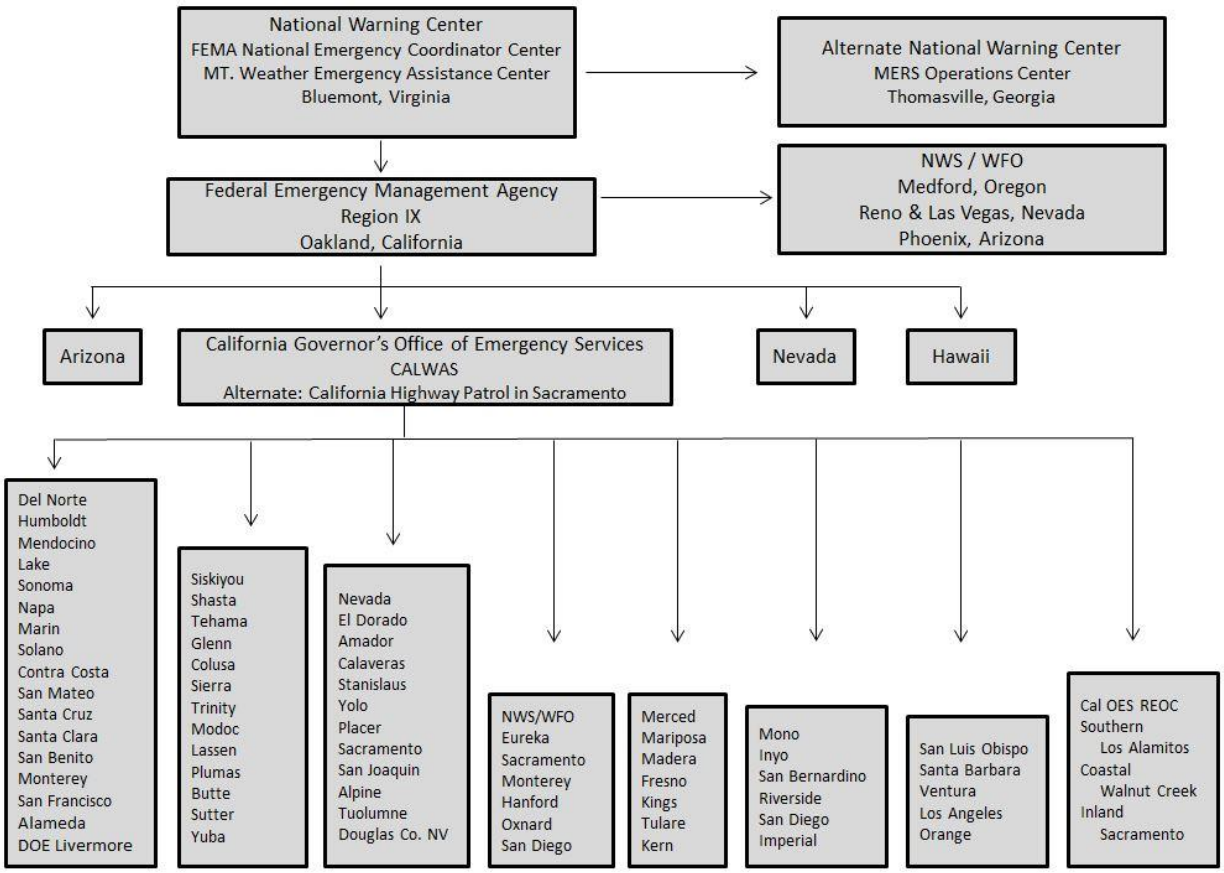
E.4 – Earthquake Warning System



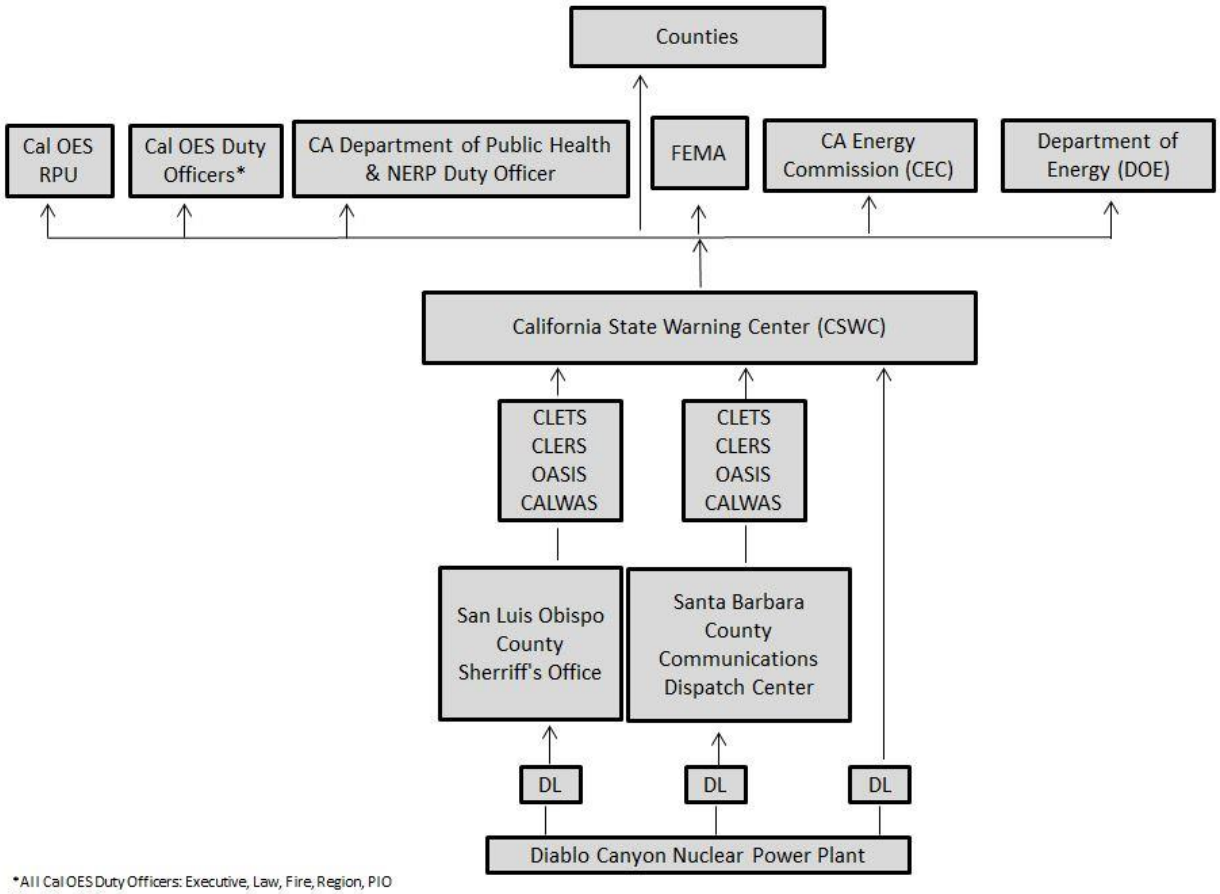
E.5 – Tsunami Warning System



E.6 – California's Portion of the National Warning System (CALWAS)



E.7 – State Nuclear Power Plant Emergency Notification System



*All Cal OES Duty Officers: Executive, Law, Fire, Region, PIO
DL = Direct Line

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16.6. ATTACHMENT F – END NOTES

[1] Government Code Section 8560

[2] Government Code Section 8568

[3] State of California Department of Finance Demographic Unit, "Report E-1 Population Estimates for Cities, Counties and State," Sacramento, California, May 1, 2015.

[4] State of California Department of Finance Demographic Research Unit, "P-1 Report State and County Population Projections," Sacramento, California. December 15, 2014.

[5] "California Travel & Tourism." Tourism Economics, July, 2015. Retrieved from URL: http://industry.visitcalifornia.com/media/uploads/files/editor/CA_State%20Forecast_July_2015 (1).pdf. Accessed: August 29, 2015.

[6] Ibid.

[7] League of California Cities. Retrieved from URL: http://www.cacities.org/Resources/Learn-About-Cities. Accessed: August 29, 2015.

[8] The United States Census Bureau, 2008 Statistical Abstract, Table 27 – Incorporated Places With 100,000 or More Inhabitants in 2006--Population: 1980 to 2006.

[9] State of California Department of Finance, "California's World Ranking 2015 Gross Domestic Product," Sacramento, California. June, 2015, et seq.

[10] California Department of Aging, *California State Plan on Aging 2013-2017*, California Department of Aging, October 1, 2013.

[11] Department of Water Resources, State Water Project Overview, March 2008.

[12] Kishor S. Jaiswal, Douglas Bausch, Rui Chen, Jawhar Bouabid, and Hope Seligson (*2015*) "Estimating Annualized Earthquake Losses for the Conterminous United States," Earthquake Spectra: December 2015, Vol. 31, No. S1, pp. S221-S243. Retrieved from URL: http://www.earthquakespectra.org/doi/abs/10.1193/010915EQS005M. Accessed November 9, 2016.

[13] Federal Emergency Management Agency, "Disaster Declarations by State/Tribal Government," Retrieved from URL: https://www.fema.gov/disasters/grid/state-tribal-government. Accessed: August 29, 2015.

[14] Ewert, J.W., Guffanti, M.C., and Murray, T.L., An Assessment of Volcanic Threat and Monitoring Capabilities in the United States: Framework for a National Volcano Early Warning System: U.S. Geological Survey Open-file Report 2005-1164, p. 18-24.

[15] California Governor's Office of Emergency Services, California Multi-Hazard Mitigation Plan, October 2013

[16] California Tsunami Waves (http://www.fema.gov/disaster/1968).

[17] Pacific Tsunami Warning Center. Retrieved from URL: https://www.ngdc.noaa.gov/nndc/struts/results?EQ_0=4440&t=101650&s=8&d=22,26,13,12&nd=display. Accessed December 22, 2016.

[18] Pacific Tsunami Warning Center. Retrieved from URL: https://www.ngdc.noaa.gov/nndc/struts/results?EQ_0=4682&t=101650&s=8&d=22,26,13,12&nd=display. Accessed December 22, 2016.

[19] Pacific Tsunami Warning Center. Retrieved from URL: https://www.ngdc.noaa.gov/nndc/struts/results?EQ_0=5413&t=101650&s=8&d=22,26,13,12&nd=display. Accessed December 22, 2016.

[20] Pacific Tsunami Warning Center. Retrieved from URL: https://www.ngdc.noaa.gov/nndc/struts/results?EQ_0=5467&t=101650&s=8&d=22,26,13,12&nd=display. Accessed December 22, 2016.

[21] Pacific Tsunami Warning Center. Retrieved from URL: https://www.ngdc.noaa.gov/nndc/struts/results?EQ_0=5590&t=101650&s=8&d=22,26,13,12&nd=display. Accessed December 22, 2016.

[22] California Energy Almanac, California Energy Commission, 2008.

[23] United State Department of Health and Human Services Flu.gov. Retrieved from URL: http://www.flu.gov/pandemic/history/. Accessed August 29, 2015.

[24] Government Code Section 8607(a)

[25] NIMS Element

[26] Government Code Section 8559(b)

[27] Government Code Section 8605

[28] Government Code Section 8588.1

[29] National Response Framework, January 2008

[30] Government Code Section 8681, et seq.

[31] National Response Framework, January 2008

[32] Other Federal agencies are similarly responsible for compliance for their respective recovery programs.

[33] Specific requirements are dependent on the assistance program and the type, scope, and location of the project. Not all potentially applicable laws, regulations and Executive Orders are listed here.

[34] Government Code Section 8635

[35] Government Code Section 8569

[36] Homeland Security Act of 2002, Pub. L. 107−296, 116 Stat. 2135.

Exhibit 3

Disaster Council Accreditation

EN

The authority for the formation and accreditation of a disaster council can be found in the California Emergency Services Act (Chapter 7 of Division 1 of Title 2 of the Government Code), and in the California Code of Regulations, Title 19, Division 2, Chapter 2, Subchapter 3, §2571. In order to be eligible for accreditation, a Disaster Council must provide the California Governor's Office of Emergency Services (Cal OES), Preparedness Branch with two certified originals of the following documents: Disaster Council Model Emergency Ordinance, Disaster Service Workers Volunteer Resolution, and Master Mutual Aid Agreement (models are below). If any amendments or revisions are made to these documents, review by Cal OES is required for continued compliance, prior to the ADC approval or adoption.

1. Disaster Council Model Emergency Ordinance: Counties and cities may create disaster councils by ordinance (G.C. §8610). In the ordinance or by resolution adopted pursuant to the ordinance, the governing body of a county or city may provide for the emergency organization, powers and duties, divisions, services, and staff of the organization. The Emergency Ordinance provides the legal basis of the emergency organization and must address the following:

- The ordinance must provide for a Disaster Council
- A chairperson or director of the Disaster Council must be specified
- The emergency organization must be recognized
- Compliance with the Emergency Services Act must be stated

2. Disaster Service Workers Volunteer Resolution: Resolution agreeing to follow established rules and regulations relating to the various classes of disaster service volunteers worker, scope of duties of each class, and manner of registration pursuant to the provisions of G.C. §8585.5. Allows cities and counties to participate in the Disaster Service Workers Volunteer Program which provides, duly registered volunteers, with workers' compensation coverage in the event of injury while performing authorized disaster duties.

3. Master Mutual Aid Agreement: Resolution agreeing to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement. This Agreement is made and entered into by and between the State of California, its various departments and agencies, and the various political subdivision of the state, to facilitate the rendering of aid to areas stricken by an emergency and to make unnecessary the execution of written agreements customarily entered into by public agencies exercising joint powers. Becoming signatory to the Agreement allows for participation in the statewide Mutual Aid system.

For assistance, please contact the Cal OES Regional staff person assigned to your county or you may contact:

Clifford Viernes, Program Manager
(916) 845-8779 – Office
Clifford.Viernes@caloes.ca.gov

EN

Disaster Council Additional Information and Council Models

Additional Information

Accredited Disaster Councils List

Master Mutual Aid Agreement (November 15, 1950)

Disaster Council Models

Disaster Council County Emergency Ordinance Model

Disaster Council City Emergency Ordinance Model

MMA Resolution Model

Model DSW Volunteer Resolution Rev 2014

Exhibit 4

CALIFORNIA
DISASTER AND CIVIL DEFENSE
MASTER MUTUAL AID AGREEMENT

This agreement made and entered into by and between the STATE OF CALIFORNIA, its various departments and agencies, and the various political subdivisions, municipal corporations, and other public agencies of the State of California;

WITNESSETH:

WHEREAS, it is necessary that all of the resources and facilities of the State, its various departments and agencies, and all its political subdivisions, municipal corporations, and other public agencies be made available to prevent and combat the effect of disasters which may result from such calamities as flood, fire, earthquake, pestilence, war, sabotage, and riot; and

WHEREAS, it is desirable that each of the parties hereto should voluntarily aid and assist each other in the event that a disaster should occur, by the interchange of services and facilities, including, but not limited to, fire, police, medical and health, communication, and transportation services and facilities, to cope with the problems of rescue, relief, evacuation, rehabilitation, and reconstruction which would arise in the event of a disaster; and

WHEREAS, it is necessary and desirable that a cooperative agreement be executed for the interchange of such mutual aid on a local, countywide, regional, statewide, and interstate basis;

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the parties hereto as follows:

1. Each party shall develop a plan providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster.

2. Each party agrees to furnish resources and facilities and to render services to each and every other party to this agreement to prevent and combat any type of disaster in accordance with duly adopted mutual aid operational plans, whether heretofore or hereafter adopted, detailing the method and manner by which such resources, facilities, and services are to be made available and furnished, which operational plans may include provisions for training and testing to make such mutual aid effective; provided, however, that no party shall be required to deplete unreasonably its own resources, facilities, and services in furnishing such mutual aid.

3. It is expressly understood that this agreement and the operational plans adopted pursuant thereto shall not supplant existing agreements between some of the parties hereto providing for the exchange or furnishing of certain types of facilities and services on a reimbursable, exchange, or other basis, but that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto, shall be without reimbursement unless otherwise expressly

provided for by the parties to this agreement or as provided in Sections 1541, 1586, and 1587, Military and Veterans Code; and that such mutual aid is intended to be available in the event of a disaster of such magnitude that it is, or is likely to be, beyond the control of a single party and requires the combined forces of several or all of the parties to this agreement to combat.

4. It is expressly understood that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto shall be available and furnished in all cases of local peril or emergency and in all cases in which a *STATE OF EXTREME EMERGENCY* has been proclaimed.

5. It is expressly understood that any mutual aid extended under this agreement and the operational plans adopted pursuant thereto, is furnished in accordance with the "California Disaster Act" and other applicable provisions of law, and except as otherwise provided by law that: "The responsible local official in whose jurisdiction an incident requiring mutual aid has occurred shall remain in charge at such incident including the direction of such personnel and equipment provided him through the operation of such mutual aid plans." (Section 1564, Military and Veterans Code.)

6. It is expressly understood that when and as the State of California enters into mutual aid agreements with other states and the Federal Government, the parties to this agreement shall abide by such mutual aid agreements in accordance with the law.

7. Upon approval or execution of this agreement by the parties hereto all mutual aid operational plans heretofore approved by the State Disaster Council, or its predecessors, and in effect as to some of the parties hereto, shall remain in full force and effect as to them until the same may be amended, revised, or modified. Additional mutual aid operational plans and amendments, revisions, or modifications of existing or hereafter adopted mutual aid operational plans, shall be adopted as follows:

    a. Countywide and local mutual aid operational plans shall be developed by the parties thereto and are operative as between the parties thereto in accordance with the provisions of such operational plans. Such operational plans shall be submitted to the State Disaster Council for approval. The State Disaster Council shall notify each party to such operational plans of its approval, and shall also send copies of such operational plans to other parties to this agreement who did not participate in such operational plans and who are in the same area and affected by such operational plans. Such operational plans shall be operative as to such other parties 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

b. Statewide and regional mutual aid operational plans shall be approved by the State Disaster Council and copies thereof shall forthwith be sent to each and every party affected by such operational plans. Such operational plans shall be operative as to the parties affected thereby 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

c. The declination of one or more of the parties to participate in a particular operational plan or any amendment, revision or modification thereof, shall not affect the operation of this agreement and the other operational plans adopted pursuant thereto.

d. Any party may at any time by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, decline to participate in any particular operational plan, which declination shall become effective 20 days after filing with the State Disaster Council.

e. The State Disaster Council shall send copies of all operational plans to those state departments and agencies designated by the Governor. The Governor may, upon behalf of any department or agency, give notice that such department or agency declines to participate in a particular operational plan.

f. The State Disaster Council, in sending copies of operational plans and other notices and information to the parties to this agreement, shall send copies to the Governor and any department or agency head designated by him; the chairman of the board of supervisors, the clerk of the board of supervisors, the County Disaster Council, and any other officer designated by a county; the mayor, the clerk of the city council, the City Disaster Council, and any other officer designated by a city; the executive head, the clerk of the governing body, or other officer of other political subdivisions and public agencies as designated by such parties.

8. This agreement shall become effective as to each party when approved or executed by the party, and shall remain operative and effective as between each and every party that has heretofore or hereafter approved or executed this agreement, until participation in this agreement is terminated by the party. The termination by one or more of the parties of its participation in this agreement shall not affect the operation of this agreement as between the other parties thereto. Upon approval or execution of this agreement the State Disaster Council shall send copies of all approved and existing mutual aid operational plans affecting such party which shall become operative as to such party 20 days after

receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in any particular operational plan. The State Disaster Council shall keep every party currently advised of who the other parties to this agreement are and whether any of them has declined to participate in any particular operational plan.

9. Approval or execution of this agreement shall be as follows:

   a. The Governor shall execute a copy of this agreement on behalf of the State of California and the various departments and agencies thereof. Upon execution by the Governor a signed copy shall forthwith be filed with the State Disaster Council.

   b. Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution approve and agree to abide by this agreement, which may be designated as *"CALIFORNIA DISASTER AND CIVIL DEFENSE MASTER MUTUAL AID AGREEMENT."* Upon adoption of such a resolution, a certified copy thereof shall forthwith be filed with the State Disaster Council.

   c. The executive head of those political subdivisions and public agencies having no legislative or governing body shall execute a copy of this agreement and forthwith file a signed copy with the State Disaster Council.

10. Termination of participation in this agreement may be effected by any party as follows:

   a. The Governor on behalf of the State and its various departments and agencies, and the executive head of those political subdivisions and public agencies having no legislative or governing body, shall file a written notice of termination of participation in this agreement with the State Disaster Council and this agreement is terminated as to such party 20 days after the filing of such notice.

   b. Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution give notice of termination of participation in this agreement and file a certified copy of such resolution with the State Disaster Council, and this agreement is terminated as to such party 20 days after the filing of such resolution.

IN WITNESS WHEREOF this agreement has been executed and approved and is effective and operative as to each of the parties as herein provided.

Signed by: EARL WARREN
GOVERNOR

On behalf of the State of California and all its Departments and Agencies

ATTEST:

November 15, 1950

Signed by: FRANK M. JORDAN
SECRETARY OF STATE



Note:

There are references in the foregoing agreement to the California Disaster Act, State Disaster Council, and various sections of the Military and Veterans Code. Effective November 23, 1970, by enactment of Chapter 1454, Statutes 1970, the California Disaster Act (Sections 1500 ff., Military and Veterans Code) was superseded by the California Emergency Services Act (Sections 8550 ff., Government Code), and the State Disaster Council was superseded by the California Emergency Council.

Section 8668 of the California Emergency Services Act provides:

(a) Any disaster council previously accredited, the State Civil Defense and Disaster Plan, the State Emergency Resources Management Plan, the State Fire Disaster Plan, the State Law Enforcement Mutual Aid Plan, all previously approved civil defense and disaster plans, all mutual aid agreements, and all documents and agreements existing as of the effective date of this chapter, shall remain in full force and effect until revised, amended, or revoked in accordance with the provisions of this chapter.

In addition, Section 8561 of the new act specifically provides:

"Master Mutual Aid Agreement" means the California Disaster and Civil Defense Master Mutual Aid Agreement, made and entered into by and between the State of California, its various departments and agencies, and the various political subdivisions of the state, to facilitate implementation of the purposes of this chapter.

Substantially the same provisions as previously contained in Section 1541, 1564, 1586 and 1587 of the Military and Veterans Code, referred to in the foregoing agreement, are now contained in Sections 8633, 8618, 8652 and 8643, respectively, of the Government Code.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

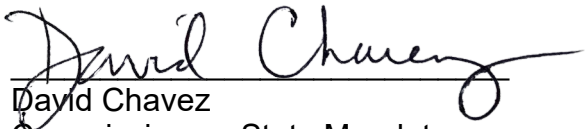
On July 11, 2025, I served the:

- **Current Mailing List dated July 11, 2025**
- **County of Santa Clara's Late Comments on the Test Claim filed July 9, 2025**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 11, 2025 at Sacramento, California.



David Chavez
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/11/25

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets, 24-TC-06

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
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acripps@applevalley.org

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
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Executive Director, *California Animal Response Emergency Support (CARES)*
CDFA Animal Health and Food Safety Services, Animal Health Branch, 1220 N Street, Sacramento, CA 95814
Phone: (916) 900-5002
CDFA.AHB_Cares_Program@cdfa.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
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STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

March 4, 2026

Exhibit F

Mr. Chris Hill
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Chad Rinde
County of Sacramento
700 H Street, Suite 3650
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Emergency Shelters: Persons with Pets, 24-TC-06
Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
County of Sacramento, Claimant

Dear Mr. Hill and Mr. Rinde:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

Written Comments: Written comments may be filed on the Draft Proposed Decision **by March 25, 2026**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[1]

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(f).) Refer to https://www.csm.ca.gov/dropbox.shtml on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(j).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

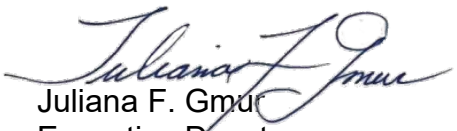
[1] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Hearing: This matter is set for hearing on **Friday, June 12, 2026** at 10:00 a.m. The Proposed Decision will be issued on or about May 29, 2026.

If you plan to address the Commission on this item, please notify the Commission Office not later than noon on the Tuesday prior to the hearing, **June 9, 2026**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and emails addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Very truly yours,



Juliana F. Gmur
Executive Director

Hearing Date: June 12, 2026

ITEM ___

TEST CLAIM

DRAFT PROPOSED DECISION

Government Code Section 8593.10(b), (c), and (d)

Statutes 2023, Chapter 344, Section 2 (AB 781)

Emergency Shelters: Persons with Pets

24-TC-06

County of Sacramento, Claimant

EXECUTIVE SUMMARY

Overview

This Test Claim alleges new state-mandated activities and costs arising from Government Code section 8593.10, as added in 2023, which requires updates to county and city emergency plans to address emergency sheltering accommodations for persons with pets, to designate at least one emergency shelter and, "to the extent practicable," one warming and cooling center to accommodate persons with pets, and to provide public information and notices about accommodating persons with pets during emergencies.

As explained herein, staff recommends that the Commission partially approve this test claim for the following activities only.

- Whenever a county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets. (Gov. Code, § 8593.10(c)).

  Government Code section 8593.10(c) does not impose a reimbursable state-mandated program on cities.

- Cities and counties shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

  (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets." (Gov. Code, § 8593.10(d).)

Procedural History

The claimant filed the Test Claim on December 23, 2024.[1] The Department of Finance (Finance) filed comments on the Test Claim on June 6, 2025.[2] The California State Association of Counties (CSAC) filed late comments on the Test Claim on July 3, 2025.[3] The claimant filed rebuttal comments on July 3, 2025.[4] The County of Santa Clara filed late comments on the Test Claim on July 9, 2025.[5] Commission staff issued the Draft Proposed Decision on March 4, 2026.[6]

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statue or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[7]

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

Issue	Description	Staff Recommendation
Was the Test Claim timely filed?	Government Code section 17551(c) requires test claims "be filed not later than 12 months following the effective date of a statute or	*Yes, timely filed* – The test claim statute became effective on January 1, 2024.

[1] Exhibit A, Test Claim.

[2] Exhibit B, Finance's Comments on the Test Claim.

[3] Exhibit C, CSAC's Late Comments on the Test Claim.

[4] Exhibit D, Claimant's Rebuttal Comments.

[5] Exhibit E, County of Santa Clara's Late Comments on the Test Claim.

[6] Exhibit F, Draft Proposed Decision.

[7] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

Issue	Description	Staff Recommendation
	executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." Section 1183.1(c) of the Commission's regulations defines "12 months" as 365 days. Government Code section 17557(e) requires: "A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that year."	The Test Claim was filed on December 23, 2024, within 12 months of the test claim statute's effective date.[8] The Test Claim is therefore timely filed.
Does Government Code section 8593.10(b) impose a reimbursable state-mandated program?	Government Code section 8593.10(b)(1) requires a city or county, upon the next update to its emergency plan, to do the following: A. A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets. B. A city "that has previously adopted an emergency plan designating emergency shelters" shall update its emergency plan to designate emergency shelters able to accommodate persons with pets. C. Whenever a city or county designates any	*Deny*. Section 8593.10(b) does not mandate a new program or higher level of service on counties or cities. Although counties may be compelled to have an emergency plan and those plans are required to designate emergency shelters, the requirement to designate shelters to accommodate persons with pets is not a new requirement for counties. Government Code section 8593.3.2. requires county emergency plans to be updated and to conform to FEMA's Comprehensive Preparedness Guide 101. FEMA's 2010 Comprehensive Preparedness Guide 101 implements the 2006 federal

[8] Exhibit A, Test Claim, page 1.

Issue	Description	Staff Recommendation
	number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets. D. Whenever a city or county designates any number of emergency cooling centers, it shall, "to the extent practicable", designate at least one cooling center that can accommodate persons with pets. E. Whenever a city or county designates any number of emergency warming centers, it shall, "to the extent practicable", designate at least one heating[9] center that can accommodate persons with pets. Section 8593.10(b)(2) requires that an emergency shelter designated as able to accommodate persons with pets to be in compliance with both of the following: A. Safety procedures regarding the sheltering of pets referenced or established in the	PETS Act, which required FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that the plans address the needs of individuals with household pets prior to, during, and following a major disaster or emergency, and contains the same activities for emergency shelters to accommodate persons with pets.[10] Thus, section 8593.10(b)(1)(A), (C), and (b)(2) does not impose any new requirements on counties. In addition, the language in section 8593.10(b)(1)(D) and (E) that says whenever a county designates any number of emergency cooling centers or warming centers, it "shall, *to the extent practicable*" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on counties. The courts have interpreted the language "shall, to the extent practicable" as recommending that the

[9] Statutes 2024, chapter 14 (AB 2232), amended this to change the word "heating" to "warming."

[10] United States Code, title 42, section 5196b(g); Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 13, 68-73, 102.

Issue	Description	Staff Recommendation
	component of the state and local emergency plan. B. Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.	activity "should" be performed "to the extent practicable," but not requiring that the activity "shall" be performed as a legally enforceable duty.[11] Thus, designating, to the extent practicable, one cooling center and warming center that can accommodate persons with pets as stated in section 8593.10(b)(1)(D) and (E) is not mandated by the state. The test claim statute imposes the same activities on cities, except that the requirement in section 8593.10(b)(1)(B) to update the emergency plan to designate emergency shelters able to accommodate persons with pets is only imposed if the city "has previously adopted an emergency plan designating emergency shelters." Unlike counties, cities have not been subject to any statutes requiring the adoption of an emergency plan, the updating of an emergency plan, or a requirement to designate shelters, and, thus, the activities required by section 8593.10(b)(1)(B) and (C), and (b)(2) are not legally compelled by state law. Moreover, there is no evidence in the record that

[11] See, *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 101-103, 114-115.

Issue	Description	Staff Recommendation
		cities are practically compelled to perform these underlying activities. Rather, cities have the authority to work with counties to use the countywide operational area for the coordination of emergency activities during a state of emergency or a local emergency and are not compelled to have a separate local emergency plan.[12] Thus, the downstream requirements in section 8593.10(b)(1)(A), (C), and (b)(2) are not mandated by the state for cities. Moreover, the language in section 8593.10(b)(1)(D) and (E) that says whenever a city designates any number of emergency cooling centers or warming centers, it "shall, to the extent practicable" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers. In addition, "shall, to the extent practicable" does not impose a legally enforceable

[12] Government Code section 8605, added by Statutes 1970, chapter 1454.

Issue	Description	Staff Recommendation
		duty.[13] Thus, the requirements in section 8593.10(b)(1)(D) and (E) are not mandated by the state for cities.[14] Accordingly, section 8593.10(b) does not mandate a new program or higher level of service.
Does Government Code section 8593.10(c) impose a reimbursable state-mandated program?	Government Code section 8593.10(c) requires that "Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets."	*Partial approve for counties only*. Counties are required by law to designate cooling and warming centers for extreme temperature events.[15] And Cal OES' Extreme Temperature Response Plan lists as "critical information" to provide to the public, "cooling and warming center locations, times of operation, and instructions.[16] Similarly, FEMA's guidelines include a standard for emergency plans to "provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters."[17] Counties are required to comply with

[13] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114-115.

[14] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[15] Government Code sections 8593.3, 8593.25.

[16] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 35.

[17] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 72.

Issue	Description	Staff Recommendation
		FEMA guidelines and Cal OES' best practices when writing their emergency plans, and are required to follow those standards.[18] Thus, counties are compelled to comply with the underlying requirement to provide notice to the public regarding the availability of a cooling center or warming center. Although counties should but are not mandated by the state to make one of the cooling or warming centers available for persons with pets, the plain language of section 8593.10(c) states that a county "shall include" in the public information about the availability of a cooling or warming center "whether" or not the cooling or warming center can accommodate pets. Staff finds that this downstream requirement is new for counties, as that information was not previously required to be provided with respect to cooling and warming centers. In addition, the requirement is mandated by the state for counties. Government Code section 14 states that "shall" is mandatory and the plain language states that counties "shall" include whether the cooling or warming center can

[18] Government Code section 8593.3.2.

Issue	Description	Staff Recommendation
		accommodate pets. The requirement also imposes a new program or higher level of service since the requirement is unique to government and provides a governmental service to the public based on the Legislature's intent on enacting the test claim statute to provide increased guidance and public awareness in extreme weather events.[19] Finally, there is sufficient evidence of increased costs mandated by the state for counties to comply with this requirement and none of the exception in Government Code section 17556 apply.[20] However, the requirement in section 8593.10(c) is not mandated by the state for cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers and thus, the downstream provisions to provide public information regarding the availability of a cooling center or warming center, and to include in that information whether the cooling or warming center can accommodate persons with pets, are not compelled

[19] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[20] Exhibit A, Test Claim, pages 26-27 (Declaration of the claimant's Emergency Operations Coordinator).

Issue	Description	Staff Recommendation
		or mandated by the state for cities.[21]
Does Government Code section 8593.10(d) impose a reimbursable state-mandated program?	Government Code section 8593.10(d) requires that "[a] city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to: (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency. (2) Local organizations that may provide emergency pet assistance. (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets."[22]	*Approve for counties and cities.* This requirement is new for both counties and cities and is not triggered by any prior decision or requirement imposed on local government. Based on the plain language "shall," the requirement is mandated by the state.[23] And the requirement is unique to government and provides a governmental service to the public since the purpose is to carry out the Legislature's intent to provide guidance in increasing public preparedness for disasters and extreme weather events and, thus, imposes a new program or higher level of service on counties and cities.[24] There is sufficient evidence in the record that the claimant will incur increased costs mandated by the state to comply with the new state-mandated activities.[25]

[21] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[22] Government Code section 8593.10(d).

[23] Government Code section 14, which states that "shall" is mandatory.

[24] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[25] Exhibit A, Test Claim, pages 26-27 (Declaration of the claimant's Emergency Operations Coordinator).

Issue	Description	Staff Recommendation
		Furthermore, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to deny this Test Claim.

Staff Analysis

This Test Claim alleges new state-mandated activities and costs arising from Government Code section 8593.10, as added in 2023, which requires updates to county and city emergency plans to address emergency sheltering accommodations for persons with pets, to designate at least one emergency shelter and, "to the extent practicable," one warming and cooling center to accommodate persons with pets, and to provide public information and notices about accommodating persons with pets during emergencies.

The Test Claim was timely filed within 12 months of the effective date of the test claim statute pursuant to Government Code section 17551(c) and has a period of reimbursement beginning January 1, 2024.[26]

Staff finds the activities required in section 8593.10(b) do not mandate a new program or higher level of service on counties and cities. With respect to counties, Government Code section 8593.10(b) imposes the following requirements:

- Update its emergency plan to designate emergency shelters able to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(A).)
- At least one emergency shelter shall be designated to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(C).)
- Whenever a number of emergency cooling centers or warming centers are designated, at least one cooling center and one warming center "shall, *to the extent practicable*," be designated to accommodate persons with pets ". (Gov. Code, § 8593.10(b)(1)(D), (E).)
- An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:
    - Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.
    - Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency. (Gov. Code, § 8593.10(b)(2).)

[26] Government Code section 17551(c); Exhibit A, Test Claim, page 1.

The courts have explained that the determination of whether the test claim statute's requirements are mandated by the state depends on whether the claimant's participation in the underlying program is voluntary or legally compelled.[27]

Here, the activities listed in section 8593.10(b) are triggered by whether counties are compelled to have emergency plans and update those plans, and whether those plans are required to designate emergency shelters and warming and cooling centers.

In this case, the law does not require counties to adopt a local emergency plan and, thus, adopting an emergency plan is not legally compelled by state law. Rather, adopting an emergency plan is a condition of having a local disaster council and a factor considered when determining whether funding under California Disaster Assistance Act (CDAA) and the Standardized Emergency Management Systems (SEMS) program should be provided.[28] In 2006 and 2007, the Commission and the Los Angeles County Superior Court found that compliance with SEMS, which includes a requirement to include the use of SEMS in local emergency plans, was not legally compelled by state law because the requirements are only imposed as a condition of seeking disaster funding for personnel-related costs under the CDAA.[29] In addition, while federal law strongly encourages local governments to have emergency plans, and even provides grant funding to develop the plans, there is no federal requirement to have an emergency plan.[30] Thus, counties are not legally compelled by law to adopt an emergency plan.

The court in SEMS also found that compliance with SEMS was not practically compelled since, like the case in *Kern High School Dist*., if a local agency decides not to participate in SEMS, or elects to discontinue participation in the program, the agency does not face "certain and severe penalties" such as "double taxation" or other "draconian measures." It simply loses its right to apply for state funding under the CDAA to assist the local agency in paying for its response-related personnel costs.[31]

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[27] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[28] Government Code section 8607(e), as last amended by Statutes 2022, chapter 28; Government Code sections 8610-8614, as last amended by Statutes 2022, chapter 239; California Code of Regulations, title 19, sections 2401, 2443(a), 2445.

[29] California Code of Regulations, title 19, section 2445; Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506); Exhibit X (11), Commission on State Mandates, Adopted Minutes, March 29, 2006 Hearing, pages 4-7; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[30] United States Code, title 42, section 5196b.

[31] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01

These findings were made even though counties have broad Constitutional police powers to protect the health, safety, and welfare of their residents; that all counties have disaster councils (which requires a local emergency plan), all counties signed the Master Mutual Aid Agreement in 1950 (which also requires a local emergency plan), and all counties were designated as operational areas in an emergency.[32]

Typically, the Commission would be required to comply with the court's prior ruling in this case under principles of res judicata and collateral estoppel, which bar the parties to the prior action from re-analyzing the same issue in a subsequent matter. However, "[n]either res judicata nor collateral estoppel were ever intended to operate so as to prevent a re-examination of the same question between the same parties where, in the interval between the first and second actions, the facts have materially changed or new facts have occurred which have altered the legal rights or relations of the litigants."[33]

Since the SEMS decision by the court, there has been a Bureau of State Audits (BSA) audit of *county* emergency plans that found the plans inadequate and insufficient, which are proven contributors to the failure of and deficiencies in a county's efforts to respond when the disaster occurs.[34] BSA recommended several statutory changes addressing county emergency plans. The following statutes were enacted:

- In 2020, Government Code section 8593.9 required Cal OES to develop best practices for counties developing and updating county emergency plans. Cal OES is required to provide technical assistance and feedback regarding the sufficiency of the county's emergency plan with respect to Cal OES' best practices; procedures for alerting, evacuating, and sheltering individuals during an emergency; and any other necessary and appropriate element.[35]
- In 2021, Cal OES issued "Best Practices for County Emergency Plans."[36] Cal OES' best practices include complying with FEMA's Comprehensive Preparedness Guide 101 when developing or updating emergency plans,

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(CSM-4506), pages 20-22; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[32] California Constitution, article XI, section 7 ("A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."); Government Code sections 8605, 8559, added by Statutes 1970, chapter 1454; Government Code section 8610(a), as last amended by Statutes 2020, chapter 254.

[33] *Union Pacific Railroad Co. v. Santa Fe Pacific Pipeline, Inc*. (2014) 231 Cal.App.4th 134, 179-180.

[34] Exhibit X (2), BSA Audit 2019, page 8.

[35] Government Code section 8593.9(b), as added by Statutes 2020, chapter 257.

[36] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans.

reviewing and updating the plan on a regular basis, and having a care and shelter plan as an annex to the emergency plan.[37]

- In 2021, Government Code section 8593.3.2 required counties to send a copy of their emergency plans to Cal OES on or before March 1, 2022, and upon any update to the plan after that date. Cal OES is required to review the county's emergency plan to determine if it is in compliance with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

  Counties are required by Government Code section 8593.3.2 to develop and revise their emergency plans to address the issues that Cal OES identifies in its review.[38]

- As last amended in 2022, Government Code section 8593.3 requires counties, upon the next update to their emergency plans, to identify emergency evacuation procedures that ensure that local community resilience centers are prepared to serve communitywide assets during extreme heat events and other disasters, and designate available locations to provide respite to individuals during emergencies including during extreme heat and cold.[39] "Local community resilience center" is defined to mean "a hydration station, cooling center, clean air center, respite center, community evacuation and emergency response center, or similar facility established to mitigate the public health impacts of extreme heat and other emergency situations exacerbated by climate change, such as wildfire, power outages, or flooding, on local populations."[40]

  The test claim statute, in section 8593.10(a), defines cooling and warming centers similar to the definition of "resilience center" in Government Code section 8593.3. Both are intended to mitigate the impacts of extreme temperatures.[41]

Thus, while counties originally may have had the discretion to adopt an emergency plan to protect the health and safety of its residents and seek funding under the CDAA, they argue they have no choice now and are compelled by these recent laws to send their emergency plans (current and updated plans) to Cal OES, Cal OES is required to review the plans to ensure the county's plan complies with FEMA's Comprehensive

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[37] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, pages 11, 15, 24, 67, 68, 71.

[38] Government Code section 8593.3.2(d).

[39] Government Code section 8593.3(a), as last amended by Statutes 2022, chapter 247.

[40] Government Code section 8593.3(f)(3), as last amended by Statutes 2022, chapter 247.

[41] Government Code section 8593.10(a)(1) and (4) defines these terms as follows:

"Cooling center" means "a facility established to mitigate the public health impacts of extreme heat."

"Warming center" means "a facility established to mitigate the public health impacts of extreme cold."

Preparedness Guide 101 and Cal OES' best practices, and counties are required to revise their plans in accordance with the Cal OES review. Thus, counties are required to have their emergency plans comply with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

However, even presuming counties are compelled to have emergency plans, the requirements to update the county's emergency plan to designate emergency shelters able to accommodate persons with pets, to designate at least one emergency shelter that can accommodate persons with pets, and to ensure that the shelter is in compliance with safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan and applicable disaster assistance policies and procedures of the Federal Emergency Management Agency, in accordance with section 8593.10(b)(1)(A), (C), and (b)(2), are *not* new requirements.

As indicated above, Government Code section 8593.3.2. requires county emergency plans to be updated and to conform to FEMA's Comprehensive Preparedness Guide 101. FEMA's 2010 Comprehensive Preparedness Guide 101 implements the 2006 federal PETS Act, which required FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that the plans address the needs of individuals with household pets prior to, during, and following a major disaster or emergency.[42] The 2010 Guide states the following: "A key consideration is the integration of household pets and service animals into the planning process."[43] The 2010 Guide contains standards on "Incorporating Household Pets and Service Animals" in congregate household pet shelters (facilities that provide refuge to household pets of shelterees)[44] and a "Functional Annexes Content Guide," which contain "core functional support activities that should be incorporated" into the emergency plan, including sheltering facilities and plans to safely accommodate persons with pets.[45]

Thus, counties were already required to have their emergency plans identify shelters that can accommodate persons with pets and to implement those plans and have at least one shelter that can accommodate persons with pets in accordance with safety procedures regarding the sheltering of pets referenced or established in the emergency plan and applicable disaster assistance policies and procedures of FEMA, as required by Government Code section 8593.10(b)(1)(A), (C), and (b)(2). These activities are not new.[46]

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[42] United States Code, title 42, section 5196b(g).

[43] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 13.

[44] Exhibit X (14), FEMA's 2007 Disaster Assistance Policy, page 2.

[45] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73, 102.

[46] Moreover, the claimant's May 2024 Animal Sheltering Annex lists the 2006 PETs Act and the 2006 California Animal Response Emergency System (CARES) as authorities and references for the Annex. The test claim statute is not identified in the Annex or its

Second, the language in section 8593.10(b)(1)(D) and (E) that says whenever a county designates any number of emergency cooling centers or warming centers, it "shall, *to the extent practicable*" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on counties. Counties are required to designate warming and cooling centers for extreme temperature events pursuant to Government Code section 8593.3, and the Cal OES Extreme Temperature Response Plan recommends that facilities identified for cooling and warming centers identify the services provided to accommodate individuals with domestic pets.[47] However, counties only have to designate a warming/heating or cooling center able to accommodate pets "*to the extent practicable*." The courts have interpreted this language as recommending that the activity "should" be performed "to the extent practicable," but not requiring that the activity "shall" be performed as a legally enforceable duty.[48] Thus, designating, to the extent practicable, one cooling center and warming center that can accommodate persons with pets as stated in section 8593.10(b)(1)(D) and (E) is not mandated by the state.

The test claim statute imposes the same activities on cities, except that the requirement in section 8593.10(b)(1)(B) to update the emergency plan to designate emergency shelters able to accommodate persons with pets is only imposed if the city "has previously adopted an emergency plan designating emergency shelters." Unlike counties, cities have not been subject to any statutes requiring the adoption of an emergency plan, the updating of an emergency plan, or a requirement to designate shelters, and, thus, the activities required by section 8593.10(b)(1)(B) and (C), and (b)(2) are not legally compelled by state law.

Moreover, there is no evidence in the record that cities are practically compelled to perform these underlying activities. Rather, cities have the authority to work with counties to use the countywide operational area for the coordination of emergency activities during a state of emergency or a local emergency and are not compelled to have a separate local emergency plan.[49] Thus, the activities in section 8593.10(b)(1)(B) and (C), and (b)(2) to update the emergency plan to designate shelters to accommodate persons with pets, to designate one shelter to accommodate persons with pets, and to comply with safety procedures and FEMA policies for those shelters are not mandated by the state for cities.

Moreover, the language in section 8593.10(b)(1)(D) and (E) that says whenever a city designates any number of emergency cooling centers or warming centers, it "shall, to the extent practicable" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated

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list of authorities and references. (Exhibit X (20) Sacramento County Animal Sheltering Annex, May 21, 2024, page 30.)

[47] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 76.

[48] See, *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 101-103, 114-115.

[49] Government Code section 8605, added by Statutes 1970, chapter 1454.

activity on cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers. Moreover, "shall, to the extent practicable" does not impose a legally enforceable duty.[50] Thus, staff finds the downstream provision to designate, to the extent practicable, one of these shelters to accommodate persons with pets is not mandated by the state.[51]

Accordingly, staff finds Government Code section 8593.10(b) does not mandate a new program or higher level of service for counties or cities.

Government Code section 8593.10(c) requires that "Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets." This requirement imposes a state-mandated new program or higher level of service on counties, but not on cities. Counties are required by law to designate cooling and warming centers for extreme temperature events.[52] And Cal OES' Extreme Temperature Response Plan lists as "critical information" to provide to the public, "cooling and warming center locations, times of operation, and instructions.[53] Similarly, FEMA's guidelines include a standard for emergency plans to "provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters."[54] Counties are required to comply with FEMA guidelines and Cal OES' best practices when writing their emergency plans, and are required to follow those standards.[55] Thus, counties are compelled to comply with the underlying requirement to provide notice to the public regarding the availability of a cooling center or warming center.

Although counties should but are not mandated by the state to make one of the cooling or warming centers available for persons with pets, the plain language of section 8593.10(c) states that a county "shall include" in the public information about the availability of a cooling or warming center "whether" or not the cooling or warming center can accommodate pets. Thus, this requirement to include information on whether or not a cooling or warming center can accommodate persons with pets is not dependent on whether a county does, in fact, offer that service; the information is required to be provided in either case and "whenever" the county provides public information about the availability of a cooling or warming center. Thus, all notices of availability of cooling and warming centers issued by a county are required to state whether or not the facility can accommodate pets. Staff finds that this downstream

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[50] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114-115.

[51] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[52] Government Code sections 8593.3, 8593.25.

[53] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 35.

[54] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 72.

[55] Government Code section 8593.3.2.

requirement is new for counties, as that information was not previously required to be provided with respect to cooling and warming centers. In addition, staff finds the requirement is mandated by the state for counties. Government Code section 14 states that "shall" is mandatory and the plain language states that counties "shall" include whether the cooling or warming center can accommodate pets. The requirement also imposes a new program or higher level of service since the requirement is unique to government and provides a governmental service to the public based on the Legislature's intent on enacting the test claim statute to provide increased guidance and public awareness in extreme weather events.[56] Thus, section 8593.10(c) mandates a new program or higher level of service on counties.

However, the requirement in section 8593.10(c) is not mandated by the state for cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers and thus, the downstream provisions to provide public information regarding the availability of a cooling center or warming center, and to include in that information whether the cooling or warming center can accommodate persons with pets, are not compelled or mandated by the state for cities.[57]

Finally, Government Code section 8593.10(d) requires that "[a] city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

> (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.
>
> (2) Local organizations that may provide emergency pet assistance.
>
> (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets."[58]

Staff finds this requirement is new for both counties and cities and is not triggered by any prior decision or requirement imposed on local government. Based on the plain language "shall," the requirement is mandated by the state.[59] And the requirement is unique to government and provides a governmental service to the public since the purpose is to carry out the Legislature's intent to provide guidance in increasing public preparedness for disasters and extreme weather events and, thus, imposes a new program or higher level of service on counties and cities.[60]

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[56] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[57] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[58] Government Code section 8593.10(d).

[59] Government Code section 14, which states that "shall" is mandatory.

[60] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

Staff finds there is sufficient evidence in the record that the claimant will incur increased costs mandated by the state to comply with the new state-mandated activities.[61] Furthermore, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to deny this Test Claim.

Conclusion

Based on the forgoing analysis, staff finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution beginning January 1, 2024, for the following activities only:

- Whenever a county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets. (Gov. Code, § 8593.10(c)).

  Government Code section 8593.10(c) does not impose a reimbursable state-mandated program on cities.

- Cities and counties shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

  (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets." (Gov. Code, § 8593.10(d).)

All other claims for reimbursement asserted are denied.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to partially approve the Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

[61] Exhibit A, Test Claim, pages 26-27 (Declaration of the claimant's Emergency Operations Coordinator).

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM Government Code Section 8593.10(b), (c), and (d) Statutes 2023, Chapter 344, Section 2 (AB 781) Filed on December 23, 2024 County of Sacramento, Claimant.	Case No.: 24-TC-06 *Emergency Shelters: Persons with Pets* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted June 12, 2026*)

DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on June 12, 2026. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

Member	**Vote**
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Office of Land Use and Climate Innovation	

Summary of the Findings

This Test Claim alleges new state-mandated activities and costs arising from Government Code section 8593.10, as added in 2023, which requires updates to county

and city emergency plans to address emergency sheltering accommodations for persons with pets, to designate at least one emergency shelter and, "to the extent practicable," one warming and cooling center to accommodate persons with pets, and to provide public information and notices about accommodating persons with pets during emergencies.

The Commission finds the Test Claim was timely filed within 12 months of the effective date of the test claim statute pursuant to Government Code section 17551(c) and has a period of reimbursement beginning January 1, 2024.[62]

The Commission finds the activities required in section 8593.10(b) do not mandate a new program or higher level of service on counties and cities. With respect to counties, Government Code section 8593.10(b) imposes the following requirements:

- Update its emergency plan to designate emergency shelters able to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(A).)
- At least one emergency shelter shall be designated to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(C).)
- Whenever a number of emergency cooling centers or warming centers are designated, at least one cooling center and one warming center "shall, *to the extent practicable*," be designated to accommodate persons with pets ". (Gov. Code, § 8593.10(b)(1)(D), (E).)
- An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:
    - Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.
    - Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency. (Gov. Code, § 8593.10(b)(2).)

The courts have explained that the determination of whether the test claim statute's requirements are mandated by the state depends on whether the claimant's participation in the underlying program is voluntary or legally compelled.[63]

Here, the activities listed in section 8593.10(b) are triggered by whether counties are compelled to have emergency plans and update those plans, and whether those plans are required to designate emergency shelters and warming and cooling centers.

In this case, the law does not require counties to adopt a local emergency plan and, thus, adopting an emergency plan is not legally compelled by state law. Rather, adopting an emergency plan is a condition of having a local disaster council and a factor considered when determining whether funding under California Disaster Assistance Act (CDAA) and the Standardized Emergency Management Systems (SEMS) program

[62] Exhibit A, Test Claim, page 1.

[63] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

should be provided.[64] In 2006 and 2007, the Commission and the Los Angeles County Superior Court found that compliance with SEMS, which includes a requirement to include the use of SEMS in local emergency plans, was not legally compelled by state law because the requirements are only imposed as a condition of seeking disaster funding for personnel-related costs under the CDAA.[65] In addition, while federal law strongly encourages local governments to have emergency plans, and even provides grant funding to develop the plans, there is no federal requirement to have an emergency plan.[66] Thus, counties are not legally compelled by law to adopt an emergency plan.

The court in SEMS also found that compliance with SEMS was not practically compelled since, like the case in *Kern High School Dist*., if a local agency decides not to participate in SEMS, or elects to discontinue participation in the program, the agency does not face "certain and severe penalties" such as "double taxation" or other "draconian measures." It simply loses its right to apply for state funding under the CDAA to assist the local agency in paying for its response-related personnel costs.[67] These findings were made even though counties have broad Constitutional police powers to protect the health, safety, and welfare of their residents; that all counties have disaster councils (which requires a local emergency plan), all counties signed the Master Mutual Aid Agreement in 1950 (which also requires a local emergency plan), and all counties were designated as operational areas in an emergency.[68]

Typically, the Commission would be required to comply with the court's prior ruling in this case under principles of res judicata and collateral estoppel, which bar the parties to the prior action from re-analyzing the same issue in a subsequent matter. However,

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[64] Government Code section 8607(e), as last amended by Statutes 2022, chapter 28; Government Code sections 8610-8614, as last amended by Statutes 2022, chapter 239; California Code of Regulations, title 19, sections 2401, 2443(a), 2445.

[65] California Code of Regulations, title 19, section 2445; Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506); Exhibit X (11), Commission on State Mandates, Adopted Minutes, March 29, 2006 Hearing, pages 4-7; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[66] United States Code, title 42, section 5196b.

[67] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506), pages 20-22; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[68] California Constitution, article XI, section 7 ("A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."); Government Code sections 8605, 8559, added by Statutes 1970, chapter 1454; Government Code section 8610(a), as last amended by Statutes 2020, chapter 254.

"[n]either res judicata nor collateral estoppel were ever intended to operate so as to prevent a re-examination of the same question between the same parties where, in the interval between the first and second actions, the facts have materially changed or new facts have occurred which have altered the legal rights or relations of the litigants."[69]

Since the SEMS decision by the court, there has been a Bureau of State Audits (BSA) audit of *county* emergency plans that found the plans inadequate and insufficient, which are proven contributors to the failure of and deficiencies in a county's efforts to respond when the disaster occurs.[70] BSA recommended several statutory changes addressing county emergency plans. The following statutes were enacted:

- In 2020, Government Code section 8593.9 required Cal OES to develop best practices for counties developing and updating county emergency plans. Cal OES is required to provide technical assistance and feedback regarding the sufficiency of the county's emergency plan with respect to Cal OES' best practices; procedures for alerting, evacuating, and sheltering individuals during an emergency; and any other necessary and appropriate element.[71]
- In 2021, Cal OES issued "Best Practices for County Emergency Plans."[72] Cal OES' best practices include complying with FEMA's Comprehensive Preparedness Guide 101 when developing or updating emergency plans, reviewing and updating the plan on a regular basis, and having a care and shelter plan as an annex to the emergency plan.[73]
- In 2021, Government Code section 8593.3.2 required counties to send a copy of their emergency plans to Cal OES on or before March 1, 2022, and upon any update to the plan after that date. Cal OES is required to review the county's emergency plan to determine if it is in compliance with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

  Counties are required by Government Code section 8593.3.2 to develop and revise their emergency plans to address the issues that Cal OES identifies in its review.[74]
- As last amended in 2022, Government Code section 8593.3 requires counties, upon the next update to their emergency plans, to "identify emergency evacuation procedures that ensure that local community resilience centers are prepared to serve communitywide assets during extreme heat events and other

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[71] Government Code section 8593.9(b), as added by Statutes 2020, chapter 257.

[72] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans.

[73] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, pages 11, 15, 24, 67, 68, 71.

[74] Government Code section 8593.3.2(d).

disasters, and designate available locations to provide respite to individuals during emergencies including during extreme heat and cold.[75] "Local community resilience center" is defined to mean "a hydration station, cooling center, clean air center, respite center, community evacuation and emergency response center, or similar facility established to mitigate the public health impacts of extreme heat and other emergency situations exacerbated by climate change, such as wildfire, power outages, or flooding, on local populations."[76]

The test claim statute, in section 8593.10(a), defines cooling and warming centers similar to the definition of "resilience center" in Government Code section 8593.3. Both are intended to mitigate the impacts of extreme temperatures.[77]

Thus, while counties originally may have had the discretion to adopt an emergency plan to protect the health and safety of its residents and seek funding under the CDAA, they argue they have no choice now and are compelled by these recent laws to send their emergency plans (current and updated plans) to Cal OES, Cal OES is required to review the plans to ensure the county's plan complies with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices, and counties are required to revise their plans in accordance with the Cal OES review. Thus, counties are required to have their emergency plans comply with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

However, even presuming counties are compelled to have emergency plans, the requirements to update the county's emergency plan to designate emergency shelters able to accommodate persons with pets, to designate at least one emergency shelter that can accommodate persons with pets, and to ensure that the shelter is in compliance with safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan and applicable disaster assistance policies and procedures of the Federal Emergency Management Agency, in accordance with section 8593.10(b)(1)(A), (C), and (b)(2), are *not* new requirements.

As indicated above, Government Code section 8593.3.2. requires county emergency plans to be updated and to conform to FEMA's Comprehensive Preparedness Guide 101. FEMA's 2010 Comprehensive Preparedness Guide 101 implements the 2006 federal PETS Act, which required FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that the plans address the needs

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[76] Government Code section 8593.3(f)(3), as last amended by Statutes 2022, chapter 247.

[77] Government Code section 8593.10(a)(1) and (4) defines these terms as follows:

"Cooling center" means "a facility established to mitigate the public health impacts of extreme heat."

"Warming center" means "a facility established to mitigate the public health impacts of extreme cold."

of individuals with household pets prior to, during, and following a major disaster or emergency.[78] The 2010 Guide states the following: "A key consideration is the integration of household pets and service animals into the planning process."[79] The 2010 Guide contains standards on "Incorporating Household Pets and Service Animals" in congregate household pet shelters (facilities that provide refuge to household pets of shelterees)[80] and a "Functional Annexes Content Guide," which contain "core functional support activities that should be incorporated" into the emergency plan, including sheltering facilities and plans to safely accommodate persons with pets.[81]

Thus, counties were already required to have their emergency plans identify shelters that can accommodate persons with pets and to implement those plans and have at least one shelter that can accommodate persons with pets in accordance with safety procedures regarding the sheltering of pets referenced or established in the emergency plan and applicable disaster assistance policies and procedures of FEMA, as required by Government Code section 8593.10(b)(1)(A), (C), and (b)(2). These activities are not new.[82]

Second, the language in section 8593.10(b)(1)(D) and (E) that says whenever a county designates any number of emergency cooling centers or warming centers, it "shall, *to the extent practicable*" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on counties. Counties are required to designate warming and cooling centers for extreme temperature events pursuant to Government Code section 8593.3, and the Cal OES Extreme Temperature Response Plan recommends that facilities identified for cooling and warming centers identify the services provided to accommodate individuals with domestic pets.[83] However, counties only have to designate a warming/heating or cooling center able to accommodate pets "*to the extent practicable*." The courts have interpreted this language as recommending that the activity "should" be performed "to the extent practicable," but not requiring that the activity "shall" be performed as a legally enforceable duty.[84] Thus, designating, to the extent practicable, one cooling

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[78] United States Code, title 42, section 5196b(g).

[79] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 13.

[80] Exhibit X (14), FEMA's 2007 Disaster Assistance Policy, page 2.

[81] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73, 102.

[82] Moreover, the claimant's May 2024 Animal Sheltering Annex lists the 2006 PETs Act and the 2006 California Animal Response Emergency System (CARES) as authorities and references for the Annex. The test claim statute is not identified in the Annex or its list of authorities and references. (Exhibit X (20) Sacramento County Animal Sheltering Annex, May 21, 2024, page 30.)

[83] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 76.

[84] See, *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 101-103, 114-115.

center and warming center that can accommodate persons with pets as stated in section 8593.10(b)(1)(D) and (E) is not mandated by the state.

The test claim statute imposes the same activities on cities, except that the requirement in section 8593.10(b)(1)(B) to update the emergency plan to designate emergency shelters able to accommodate persons with pets is only imposed if the city "has previously adopted an emergency plan designating emergency shelters." Unlike counties, cities have not been subject to any statutes requiring the adoption of an emergency plan, the updating of an emergency plan, or a requirement to designate shelters, and, thus, the activities required by section 8593.10(b)(1)(B) and (C), and (b)(2) are not legally compelled by state law.

Moreover, there is no evidence in the record that cities are practically compelled to perform these underlying activities. Rather, cities have the authority to work with counties to use the countywide operational area for the coordination of emergency activities during a state of emergency or a local emergency and are not compelled to have a separate local emergency plan.[85] Thus, the activities in section 8593.10(b)(1)(B) and (C), and (b)(2) to update the emergency plan to designate shelters to accommodate persons with pets, to designate one shelter to accommodate persons with pets, and to comply with safety procedures and FEMA policies for those shelters are not mandated by the state for cities.

Moreover, the language in section 8593.10(b)(1)(D) and (E) that says whenever a city designates any number of emergency cooling centers or warming centers, it "shall, to the extent practicable" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers. Moreover, "shall, to the extent practicable" does not impose a legally enforceable duty.[86] Thus, the downstream provision to designate, to the extent practicable, one of these shelters to accommodate persons with pets is not mandated by the state.[87]

Accordingly, Government Code section 8593.10(b) does not mandate a new program or higher level of service for counties or cities.

Government Code section 8593.10(c) requires that "[w]henever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets." This requirement imposes a state-mandated new program or higher level of service on counties, but not on cities. Counties are required by law to

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[85] Government Code section 8605, added by Statutes 1970, chapter 1454.

[86] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114-115.

[87] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

designate cooling and warming centers for extreme temperature events.[88] And Cal OES' Extreme Temperature Response Plan lists as "critical information" to provide to the public, "cooling/warming center locations, times of operation, and instructions."[89] Similarly, FEMA's guidelines include a standard for emergency plans to "provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters."[90] Counties are required to comply with FEMA guidelines and Cal OES' best practices when writing their emergency plans, and are required to follow those standards.[91] Thus, counties are compelled to comply with the underlying requirement to provide notice to the public regarding the availability of a cooling center or warming center.

Although counties should but are not mandated by the state to make one of the cooling or warming centers available for persons with pets, the plain language of section 8593.10(c) states that a county "shall include" in the public information about the availability of a cooling or warming center "whether" or not the cooling or warming center can accommodate pets. Thus, this requirement to include information on whether or not a cooling or warming center can accommodate persons with pets is not dependent on whether a county does, in fact, offer that service; the information is required to be provided in either case and "whenever" the county provides public information about the availability of a cooling or warming center. Thus, all notices of availability of cooling and warming centers issued by a county are required to state whether or not the facility can accommodate pets. The Commission finds that this downstream requirement is new for counties, as that information was not previously required to be provided with respect to cooling and warming centers. In addition, the requirement is mandated by the state for counties. Government Code section 14 states that "shall" is mandatory and the plain language states that counties "shall" include whether the cooling or warming center can accommodate pets. The requirement also imposes a new program or higher level of service since the requirement is unique to government and provides a governmental service to the public based on the Legislature's intent on enacting the test claim statute to provide increased guidance and public awareness in extreme weather events.[92] Thus, section 8593.10(c) mandates a new program or higher level of service on counties.

However, the requirement in section 8593.10(c) is not mandated by the state for cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers and thus, the downstream provisions to provide public information regarding the availability of a cooling center or warming center, and to include in that

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[88] Government Code sections 8593.3, 8593.25.

[89] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 35.

[90] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 72.

[91] Government Code section 8593.3.2.

[92] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

information whether the cooling or warming center can accommodate persons with pets, are not compelled or mandated by the state for cities.[93]

Finally, Government Code section 8593.10(d) requires that "[a] city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

> (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.
>
> (2) Local organizations that may provide emergency pet assistance.
>
> (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets."[94]

This requirement is new for both counties and cities and is not triggered by any prior decision or requirement imposed on local government. Based on the plain language "shall," the requirement is mandated by the state.[95] And the requirement is unique to government and provides a governmental service to the public since the purpose is to carry out the Legislature's intent to provide guidance in increasing public preparedness for disasters and extreme weather events and, thus, imposes a new program or higher level of service on counties and cities.[96]

The Commission finds there is sufficient evidence in the record that the claimant will incur increased costs mandated by the state to comply with the new state-mandated activities.[97] Furthermore, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to deny this Test Claim.

Accordingly, the Commission partially approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution beginning January 1, 2024, for the following activities only:

- Whenever a county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets. (Gov. Code, § 8593.10(c)).

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[93] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[94] Government Code section 8593.10(d).

[95] Government Code section 14, which states that "shall" is mandatory.

[96] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[97] Exhibit A, Test Claim, pages 26-27 (Declaration of the claimant's Emergency Operations Coordinator).

Government Code section 8593.10(c) does not impose a reimbursable state-mandated program for cities.

- Cities and counties shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

  (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets." (Gov. Code, § 8593.10(d).)

All other claims for reimbursement asserted are denied.

COMMISSION FINDINGS

I. Chronology

01/01/2024 The test claim statute became effective.

12/23/2024 The claimant filed the Test Claim.[98]

06/06/2025 The Department of Finance (Finance) filed comments on the Test Claim.[99]

07/03/2025 California State Association of Counties (CSAC) filed late comments on the Test Claim.[100]

07/03/2025 The claimant filed rebuttal comments.[101]

07/09/2025 County of Santa Clara filed late comments on the Test Claim.[102]

03/04/2026 Commission staff issued the Draft Proposed Decision.[103]

II. Background

The test claim statute added section 8593.10 to the Government Code to require updates to county and city emergency plans to address emergency sheltering accommodations for persons with pets, to designate at least one emergency shelter and "to the extent practicable" one warming and cooling center to accommodate persons with pets, and to provide public information and notices about accommodating persons

[98] Exhibit A, Test Claim.

[99] Exhibit B, Finance's Comments on the Test Claim.

[100] Exhibit C, CSAC's Late Comments on the Test Claim.

[101] Exhibit D, Claimant's Rebuttal Comments.

[102] Exhibit E, County of Santa Clara's Late Comments on the Test Claim.

[103] Exhibit F, Draft Proposed Decision.

with pets. Section 8593.10 is located within the California Emergency Services Act (Gov. Code, §§ 8550-8669.87), which was enacted in 1970 to replace the California Disaster Act of 1943 (former Mil. & Vet. Code, § 1500 et seq.).[104] A background of Emergency Services Act and its evolution is below.

A. Overview of the California Emergency Services Act

The California Emergency Services Act recognizes the State's responsibility to mitigate the effects of emergencies that may result in harm to the health and safety of the public, confers upon the Governor and the governing bodies of local government emergency powers to act in case of emergency, establishes the Office of Emergency Services (Cal OES), and envisions the coordination of efforts with other jurisdictions, including the federal government, and mutual aid among all levels of government in an emergency.[105] The Act begins with Government Code section 8550, which states the following:

> The state has long recognized its responsibility to mitigate the effects of natural, manmade, or war-caused emergencies that result in conditions of disaster or in extreme peril to life, property, and the resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state. To ensure that preparations within the state will be adequate to deal with such emergencies, it is hereby found and declared to be necessary:
>
> (a) To confer upon the Governor and upon the chief executives and governing bodies of political subdivisions of this state the emergency powers provided herein; and to provide for state assistance in the organization and maintenance of the emergency programs of such political subdivisions.
>
> (b) To provide for a state office to be known and referred to as the Office of Emergency Services, within the office of the Governor, and to prescribe the powers and duties of the director of that office.
>
> (c) To provide for the assignment of functions to state entities to be performed during an emergency and for the coordination and direction of the emergency actions of those entities.
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> (d) To provide for the rendering of mutual aid by the state government and all its departments and agencies and by the political subdivisions of this state in carrying out the purposes of this chapter.

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[104] Statutes 1970, chapter 1454.

[105] Government Code sections 8550-8669.87; *Martin v. Municipal Court* (1983) 148 Cal.App.3d 693, 696 ("The California Emergency Services Act recognizes and responds to a fundamental role of government to provide broad state services in the event of emergencies resulting from conditions of disaster or of extreme peril to life, property, and the resources of the state. Its purpose is to protect and preserve health, safety, life, and property.").

> (e) To authorize the establishment of such organizations and the taking of such actions as are necessary and proper to carry out the provisions of this chapter.
>
> It is further declared to be the purpose of this chapter and the policy of this state that all emergency services functions of this state be coordinated as far as possible with the comparable functions of its political subdivisions, of the federal government including its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with any emergency that may occur.[106]

The Act establishes three degrees of emergency; a state of war emergency, a state of emergency, and a local emergency.[107] The difference between a state of emergency and a local emergency is in their magnitude. A state of emergency is one which requires the combined forces of mutual aid region or regions to combat. A local emergency is one which requires the combined forces of other political subdivisions to combat.[108] Depending on the degree of emergency, the Act confers emergency powers upon the Governor, and the chief executives and governing bodies of local governments.[109]

One of the chief purposes of the Act is to ensure that state and local entities will adequately prepare for and deal with the effects of emergencies through the coordination of resources available at the state and local level.[110] Government Code section 8550 states in relevant part that "the purpose [of the act is] … that all emergency services functions of this state be coordinated as far as possible with the comparable functions of its political subdivisions, of the federal government including its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with any emergency that may occur."

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[106] Government Code section 8550, as last amended by Statutes 2013, chapter 352.

[107] Government Code section 8558, as last amended by Statutes 2022, chapter 537.

[108] 62 Opinions of the Attorney General 701, notes 3 and 4 (1979).

[109] Government Code sections 8620 et al. (as last amended by Stats. 2011, ch. 36), 8625 et al. (as last amended by Stats. 2015, ch. 62), 8630 et al. (as last amended by Stats. 2018, ch. 395).

[110] *Macias v. State of California* (1995) 10 Cal.4th 844, 854 ("One of the primary purposes of the act is to ensure that 'all emergency services functions' of the State and local governments, the federal government, and 'private agencies of every type,' 'be coordinated ... to the end that the most effective use be made of all manpower, resources, and facilities for dealing with any emergency that may occur.'"); see also, 62 Opinions of the California Attorney General, 701, 702 (1979).

1. The 1950 Master Mutual Aid Agreement and County Operational Area Plans.

The Emergency Services Act provides for mutual aid during emergencies when the need arises for outside aid in any county, city and county, or city through adoption of emergency plans and the Master Mutual Aid Agreement.[111] The Master Mutual Aid Agreement was originally executed in November 1950 by Governor Earl Warren on behalf of the State and its departments and agencies, by all 58 counties, and by most cities.[112] Under the terms of the agreement, each party is required to develop mutual aid operational plans providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster.[113] Government Code section 8616 states: "During any state of war emergency or state of emergency when the need arises for outside aid in any county, city and county, or city, such aid shall be rendered in accordance with approved emergency plans."[114] In addition, the agreement states that each party agrees to furnish resources and facilities and to render services to each and every other party to prevent and combat any type of disaster. However, no party is required to unreasonably deplete its own resources, facilities, and services in the process of furnishing mutual aid.[115] The mutual aid extended under the agreement and the operational plans adopted pursuant to the agreement must be consistent with the California Disaster Act (the predecessor to the Emergency Services Act).[116] Any party can terminate its participation in the agreement with proper notice.[117] State guidelines explain that mutual aid works through the county operational areas and state mutual aid regions as follows:

> The use of mutual aid by a local government is determined by the jurisdiction in need. Local governments requiring assistance will request mutual aid from neighboring jurisdictions or through their respective operational area. (A variety of local written and in some cases informal mutual aid agreements exist between jurisdictions.) The operational area (which consists of the county and all political jurisdictions within the county) will coordinate the additional aid requirement first from jurisdictions within the operational area (including county owned resources). (See operational area discussion in Guidelines I.D.)

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[111] Government Code section 8561 and 8615 et seq., as last amended by Statutes 2015, chapter 25.

[112] Exhibit X (18), Master Mutual Aid Agreement; Exhibit X (21), SEMS Guidelines, Part I, System Description Section E Regional Level, page 3; *California Correctional Peace Officers Association v. Schwarzenegger* (2008) 163 Cal.App.4th 802, 813.

[113] Exhibit X (18), Master Mutual Aid Agreement, page 1.

[114] Government Code section 8616, as added by Statutes 1970, chapter 1454.

[115] Exhibit X (18), Master Mutual Aid Agreement, page 1.

[116] Exhibit X (18), Master Mutual Aid Agreement, page 2.

[117] Exhibit X (18), Master Mutual Aid Agreement, pages 3, 4.

> If sufficient resources are still not available, the request will be made to the regional level. The mutual aid system regional coordinator (which will differ in name and location by mutual aid system) will attempt to fill the resource order from mutual aid suppliers within the region. If sufficient resources are still not available, the request will be forwarded to the state level, which will fill the resource request from other mutual aid regions within the state, from interstate sources and/or from private and federal sources.
>
> The regional level coordinates mutual aid information and resources among the operational area within the region and between the operational areas and the state level. The regional level and the state level coordinate overall state agency support for emergency response activities.[118]

The Emergency Services Act designates each county an operational area.[119] And each county and the political subdivisions in the county may organize and structure their operational areas.[120] In a state of war emergency, each operational area is required to serve as a link in the system of communications and coordination between the state's emergency operating centers and the operating centers of the political subdivisions comprising the operational area. A county and the political subdivisions within the county also have the authority to use the operational area for the coordination of emergency activities and to serve as a link in the communications system during a state of emergency or a local emergency.[121]

In the County of Sacramento, the County, the cities, and the special districts within the County, established the terms of the operational area by agreement in 1995 and have an operational area (OA) plan, which addresses methods for managing information, resources, and priorities during a multi-jurisdictional response to emergency situations and "is an adjunct to local jurisdiction emergency and disaster plans . . . ."[122] Pursuant to their agreement, each participant is responsible for the following:

- Designating a representative who has the authority to speak on behalf of the jurisdiction to coordinate with the operational area.
- Establish communication and coordination with the operational area.
- Notify the operational area with the EOC [Emergency operation center] is activated.
- Provide status reports of emergency conditions within the jurisdiction.

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[118] Exhibit X (21), SEMS Guidelines, Part I, System Description Section E Regional Level, page 4.

[119] Government Code sections 8605, 8559, added by Statutes 1970, chapter 1454.

[120] Government Code section 8605, added by Statutes 1970, chapter 1454.

[121] Government Code section 8605, added by Statutes 1970, chapter 1454.

[122] Exhibit X (19), Sacramento County OES Operational Area Plan, pages 2, 19.

- Determine the utilization of jurisdictional resources and render mutual aid, if possible, when requested by the operational area.
- Utilize operational area functional coordinators when requesting mutual aid resources.
- If necessary, participate with other affected jurisdictions in the operation area in a multi-jurisdictional coordination group.[123]

The County of Sacramento's operational area plan is meant to be used in conjunction with individual local government emergency operation plans and disaster plans.[124]

A "mutual aid region" is defined as a subdivision of the state emergency services organization, established to facilitate the coordination of mutual aid and other emergency operations within an area of the state consisting of two or more county operational areas."[125] The State of California is divided into six mutual aid regions to enable the most effective application, administration, and coordination of mutual aid and other emergency-related activities.[126]

2. The Emergency Services Act Authorizes Each Local Government to Develop Local Emergency Plans. However, a Local Emergency Plan Is Required if Local Government Has a Disaster Council or Seeks State Funding for Response and Recovery Following a Disaster.

The California Emergency Services Act defines "emergency plan" as:

> . . . those official and approved documents which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. These plans include such elements as continuity of government, the emergency services of governmental agencies, mobilization of resources, mutual aid, and public information.[127]

The State's emergency plan, which is approved by the Governor, "shall be in effect in each political subdivision of the state, and the governing body of each political subdivision shall take such action as may be necessary to carry out the provisions

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[123] Exhibit X (19), Sacramento County OES Operational Area Plan, pages 14-15.

[124] Exhibit X (19), Sacramento County OES Operational Area Plan, page 5.

[125] Government Code section 8559(a), as added by Statutes 1970, chapter 1452.

[126] *California Correctional Peace Officers Association v. Schwarzenegger* (2008) 163 Cal.App.4th 802, 813; Exhibit X (21), SEMS Guidelines, Part I, System Description Section E Regional Level, page 4.

[127] Government Code section 8560(a), added by Statutes 1970, chapter 1454.

thereof."[128] "Political subdivision" is defined to include any county, city, or city and county.[129]

The Government Code also requires the Governor to coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of this state," and "such plans and programs . . . [shall] be integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government and of other states to the fullest possible extent."[130]

The Emergency Services Act, however, does not expressly require counties and cities to develop a local emergency plan. Rather, the development of an emergency plan is a downstream requirement of the following programs and contractual agreements identified in the Emergency Services Act that counties and cities elect to participate.

a. Local Disaster Councils

Under the Emergency Services Act, counties and cities have the authority to create local disaster councils by ordinance to formally organize, plan, and coordinate responses for state and local emergencies.[131] Government Code section 8610(b) states: "Counties, cities and counties, and cities ***may*** enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements."[132] Government Code section 8610 further states that if a disaster council is established, it "shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private."[133]

The disaster council is then required to supply a copy of its emergency plan to Cal OES.[134] Cal OES is required to review ten emergency plans per year, prioritizing plans submitted by counties in high risk wildfire disaster areas, to determine if the emergency plan substantially conforms to or exceeds the recommendations described in FEMA's

[128] Government Code sections 8560(b), 8568, as added by Statutes 1970, chapter 1454.

[129] Government Code section 8557(a), as last amended by Statutes 2021, chapter 597.

[130] Government Code section 8569, as added by Statutes 1970, chapter 1454.

[131] Government Code sections 8610-8614, as last amended by Statutes 2022, chapter 239.

[132] Government Code section 8610(b), as last amended by Statutes 2020, chapter 254, emphasis added.

[133] Government Code section 8610(a), as last amended by Statutes 2020, chapter 254.

[134] Government Code section 8610(a), as last amended by Statutes 2020, chapter 254.

Comprehensive Preparedness Guide 101, or other successor emergency operations planning guidance.[135] Government Code section 8612 further states that "any disaster council that both agrees to follow the rules and regulations established by the Office of Emergency Services pursuant to Section 8585.5 [agreeing to comply with the Emergency Services Act] and substantially complies with those rules and regulations shall be certified by the office."[136] Disaster councils may be accredited following Cal OES's review of the county or city disaster council emergency ordinance, disaster service workers volunteer resolution, and a resolution agreeing to abide by the Master Mutual Aid Agreement.[137]

All 58 counties and most cities in California have accredited disaster councils as of July 15, 2024 (all cities listed, except for the Cities of Point Arena, Yountville, Truckee, Jurupa Valley, Citrus Heights, Rancho Cordova, and Lathrop).[138]

b. The California Disaster Assistance Act (CDAA)

In 1974, the Legislature enacted the California Disaster Assistance Act (CDAA) to provide state financial assistance to eligible local agencies that apply for grant funds to help pay for the costs of emergency response and recovery projects following a disaster.[139] "Disaster" is defined as a "fire, flood, storm, tidal wave, earthquake, or other similar public calamity resulting from natural causes or in the case of fire which the Governor determines presents a threat to public safety, by man-made causes."[140] State financial assistance under the CDAA is available if the Governor proclaims a state of emergency and activates the Act.[141] The CDAA and its regulations define the

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[135] Government Code section 8610(c), as last amended by Statutes 2020, chapter 254.

[136] Government Code section 8612, as last amended by Statutes 2013, chapter 352; California Code of Regulations, title 19, section 2571.

[137] Exhibit X (3), Cal OES Disaster Council Accreditation, page 2.

[138] Exhibit X (8), Cal OES Number of Accredited Disaster Councils as of July 2024, pages 5, 6, 7, 8. For example, this document shows that the City of Lathrop has not yet been accredited, has not submitted a disaster council ordinance, and has not submitted an adopted mutual aid resolution). However, the City of Lathrop does have an Emergency Preparedness division, https://www.ci.lathrop.ca.us/city-manager/page/emergency-preparedness (accessed on January 22, 2026), which states that the City coordinates emergency plans and responses with Cal OES and San Joaquin County OES.)

[139] Government Code sections 8680-8692, added by Statutes 1974, chapter 290; California Code of Regulations, title 19, sections 2900 et seq.

[140] Government Code section 8680.3; see also, California Code of Regulations, title 19, section 2900(f).

[141] Government Code section 8685.2; California Code of Regulations, title 19, section 2970.

emergency response and recovery costs eligible for state financial assistance.[142] Direct costs including extraordinary personnel costs (excluding the normal hourly wage costs of regularly assigned emergency services and public safety personnel), equipment costs, and the cost of supplies and materials are eligible for state assistance under the CDAA.[143] Indirect and administrative costs are also eligible for reimbursement.[144] If the application is approved, state funds can be applied to the following *response* activities:

- emergency response work to save lives, protect public health and safety, and to protect property (Cal. Code Regs., tit. 19, § 2920);
- debris removal (Cal. Code Regs., tit. 19, § 2925); and
- emergency protective measures that include emergency flood and levee control, emergency protection of structures and other public works (Cal. Code Regs., tit. 19, § 2930).

State funds can also be applied to the following *recovery* activities:

- permanent repair, restoration, or replacement of public facilities (Cal. Code Regs., tit. 19, § 2940);
- permanent repair, restoration, or replacement of streets, roads, and bridges (Cal. Code Regs., tit. 19, § 2945);
- permanent repair, restoration, or replacement of dikes, levees, and flood control works (Cal. Code Regs., tit. 19, § 2950);
- permanent repair or replacement of public buildings (Cal. Code Regs., tit. 19, § 2955);
- permanent repair or replacement of water, power, or sewage facilities (Cal. Code Regs., tit. 19, § 2960); and
- other projects to repair or replace parks and recreational facilities, district roads and access facilities, or costs associated with temporary facilities (Cal. Code Regs., tit. 19, § 2965).

Local agencies are expected to first seek federal funding and to exhaust federal appeal rights before seeking state funding under the CDAA.[145] No state assistance will be provided if the local agency has, through its own negligence, failed to pursue maximum federal participation in funding projects.[146] Furthermore, except as expressly specified

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[142] Government Code sections 8680.4, 8685; California Code of Regulations, title 19, sections 2920-2965.

[143] Government Code section 8685(a); California Code of Regulations, title 19, section 2910(a)-(g).

[144] California Code of Regulations, title 19, section 2910(g).

[145] California Code of Regulations, title 19, section 2910(a).

[146] California Code of Regulations, title 19, section 2910(a).

in statute, the state share of project funds shall be no more than "75 percent of total state eligible costs."[147] Thus, under the CDAA, the local agency share of costs is 25 percent of total state eligible costs. If federal disaster funds become available, the federal funds are deducted from the total state share.[148] For example, if the federal government funds 75 percent of the eligible costs, the state's share of costs would be 18 percent (75% of the remaining 25%) and the local agency's share of costs would be six percent (25% of the remaining 25%).

Factors considered when determining whether funding under the CDAA should be provided include the "[a]ctivation of Emergency Operations Plan . . ."[149]

c. Standardized Emergency Management System (SEMS), which incorporates the California Animal Response Emergency System (CARES)

In 1992, Government Code section 8607 required Cal OES, in coordination with interested state and local agencies, to establish by regulation a standardized emergency management system, or SEMS, for use by all emergency response agencies for all emergencies or disasters referenced in the state emergency plan.[150] The regulations became operative on September 2, 1994, and bring together several preexisting emergency response systems, including the operational area concept and provisions from the Master Mutual Aid Agreement.[151] SEMS is intended to standardize response to emergencies involving multiple jurisdictions or multiple agencies. In 2006, the Governor issued an executive order requiring Cal OES to integrate the federal emergency system, National Incident Management System (NIMS), into the state's emergency management system.[152] The programs are described as follows:

> California's emergency response system, which is known as the Standardized Emergency Management System (SEMS) mirrors the federal government's National Incident Management System (NIMS). The Federal Emergency Management Agency (FEMA) manages the federal

[147] Government Code section 8686; California Code of Regulations, title 19, section 2970(e).

[148] Government Code section 8686.2.

[149] Exhibit X (5), Cal OES Fact Sheet, CDAA Process, page 3.

[150] Statutes 1992, chapter 1069, and last amended by Statutes 2022, chapter 28.

[151] California Code of Regulations, title 19, sections 2400-2450. Section 2401 states "These regulations establish the Standardized Emergency Management System (SEMS) based upon the Incident Command System (ICS) adapted from the system originally developed by the Firefighting Resources of California Organized for Potential Emergencies (FIRESCOPE) program including those currently in use by state agencies, the Multi-Agency Coordination System (MACS) as developed by FIRESCOPE program, the operational area concept, and the Master Mutual Aid Agreement and related mutual aid systems."

[152] Exhibit X (16), Governor Executive Order S-2-05.

> system, which is the nation's comprehensive approach to emergency management and applies to all levels of government, including cities, counties, and states. Under the State's emergency management system, local governments, which include cities, counties, and special districts are primarily responsible for emergency response. As Figure 1 demonstrates, when a natural disaster exceeds a local government's capacity to manage it, the local government may request assistance from the next level up in the emergency management system.[153]

Under the SEMS program, local governments are the first responders and are required to manage and coordinate the overall emergency response and recovery activities in their jurisdictions.[154] Cities are responsible for emergency response within their boundaries and counties are responsible for emergency response in unincorporated areas and as operational area emergency management staff.[155] All local governments are responsible for coordinating with other local governments, the field response level, and the operational area. Local governments are also responsible for providing mutual aid within their capabilities and can request assistance from the next level up in the emergency management system when a disaster exceeds a local government's capacity to manage it.[156] Mutual aid under the SEMS program is described as follows:

> The basic concept provides that within the operational area, adjacent or neighboring law enforcement agencies will assist each other. Should the event require assistance from outside the county, the region will provide requested assistance to the impacted county. If the combined resources of the region are insufficient to cope with the incident, the Regional Coordinator contacts the Cal OES Law Enforcement Branch for coordination of resources. A similar plan exists for Coroner and Search and Rescue Mutual Aid.[157]

State agencies are required to use SEMS to coordinate multiple jurisdiction or multiple agency emergency and disaster operations.[158]

Local agencies, on the other hand, are required to use SEMS in order to continue to be eligible for state funding under the CDAA for response-related *personnel* costs related to emergency work, debris removal, and emergency protective measures pursuant to

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[153] Exhibit X (2), BSA Audit 2019, page 13.

[154] Exhibit X (21), SEMS Guidelines, Part I, Local Government Level, page 3.

[155] Exhibit X (21), SEMS Guidelines, Part I, Local Government Level, pages 3-4.

[156] Exhibit X (21), SEMS Guidelines, Part I, Local Government Level, page 4; Exhibit X (2), BSA Audit 2019, page 13.

[157] Exhibit X (7), Cal OES Mutual Aid System, page 2.

[158] Government Code section 8607(d), as last amended by Statutes 2022, chapter 28; California Code of Regulations, title 19, sections 2401, 2443(a).

sections 2920, 2925, and 2930 of the Cal OES regulations.[159] Non-participating local agencies could still be eligible to receive funding for repair, renovation, or other *non-personnel* costs resulting from an emergency.[160]

Participating local governments are required to include the use of SEMS in their emergency plans and procedures: "Local governments, operational areas, and state agencies shall include the use of SEMS in emergency plans and procedures . . ."[161]

On March 29, 2006, the Commission adopted a statement of decision, finding that the SEMS program in Government Code section 8607 and the regulations adopted by Cal OES (Code of Regs., tit. 19, §§ 2400-2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution based on the California Supreme Court's 2003 decision in *Kern High School Dist.* (2003) 30 Cal.4th 727, and other cases, since the requirements were triggered by local discretionary decisions to participate in the program to receive response-related personnel costs as follows (with footnotes omitted):[162]

> The claimant concedes that Government Code section 8607, subdivision (e), and the corresponding regulations appear voluntary on its face. But the claimant contends that the "financial penalties" imposed for noncompliance with SEMS makes the program mandatory. The claimant states that the "initial decision" to participate in the program creates the "financial penalties." A similar argument was raised by the school districts in *Kern High School Dist*., and rejected by the court based on the facts of the case.
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> In *Kern High School Dist*., the school districts urged the court to define "state mandate" broadly to include situations where participation in the program is coerced as a result of severe penalties that would be imposed for noncompliance. The court previously applied such a broad construction to the definition of a federal mandate in the case of *City of Sacramento v. State* (1990) 50 Cal.3d 51, 74, where the state's failure to comply with federal legislation that extended mandatory coverage under the state's unemployment insurance law would result in California businesses facing "a new and serious penalty – full, double unemployment taxation by both state and federal governments." Although the court in

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[159] Government Code section 8607(e), as last amended by Statutes 2022, chapter 28; California Code of Regulations, title 19, sections 2401, 2443(a).

[160] Government Code section 8607(e)(2); California Code of Regulations, title 19. sections 2401, 2443.

[161] California Code of Regulations, title 19, section 2445.

[162] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506); Exhibit X (11), Commission on State Mandates, Adopted Minutes, March 29, 2006 Hearing, pages 4-7.

Kern High School Dist. declined to apply the reasoning in *City of Sacramento* that a state mandate may be found in the absence of strict legal compulsion, after reflecting on the purpose of article XIII B, section 6 – to preclude the state from shifting financial responsibilities onto local agencies – the court stated: "In light of that purpose, we do not foreclose the possibility that a reimbursable state mandate under article XIII B, section 6, properly might be found in some circumstances in which a local entity is not legally compelled to participate in a program that requires it to expend additional funds."

However, the court in *Kern High School Dist*. found that the facts before it failed to amount to such a "de facto" mandate. The court concluded that:

> [T]he circumstances presented in the case before us do not constitute the type of nonlegal compulsion that reasonably could constitute, in claimants' phrasing, a "de facto" reimbursable state mandate. Contrary to the situation that we described in City of Sacramento … a claimant that elects to discontinue participation in one of the programs here at issue does not face "certain and severe … penalties" such as "double … taxation" or other "draconian" consequences … but simply must adjust to the withdrawal of grant money along with the lifting of program obligations. Such circumstances do not constitute a reimbursable state mandate for purposes of article XIII B, section 6. [Fn. omitted.]

The court reasoned as follows:

> Although it is completely understandable that a participant in a funded program may be disappointed when additional requirements (with their attendant costs) are imposed as a condition of continued participation in the program, just as such a participant would be disappointed if the total amount of the annual funds provided for the program were reduced by legislative or gubernatorial action, the circumstances that the Legislature has determined that the requirements of an ongoing elective program should be modified does not render a local entity's decision whether to continue its participation in the modified program any less voluntary.

The court's reasoning applies to this case. If a local agency decides not to participate in SEMS, or elects to discontinue participation in the program, the agency does not face "certain and severe penalties" such as "double taxation" or other "draconian measures." It simply loses its right to apply for state funding to assist the local agency in paying for its response-related *personnel* costs. The agency would still be eligible to receive funding for repair, renovation, or other non-personnel costs resulting from an emergency.

In this respect, the claimant states that "[w]e would agree that the impact of the forfeiture in comparison to the overall cost recovery *could* be small

… [h]owever, the dollars for disaster response personnel costs could be large." (Emphasis in original.) There is no evidence in the law or in the record, however, that the reduced funding amounts to a "certain and severe" penalty imposed on a local agency. As stated by the California Supreme Court, "[a]lthough it is completely understandable that a participant in a funded program may be disappointed when additional requirements (with their attendant costs) are imposed as a condition of continued participation in the program . . . the circumstances that the Legislature has determined that the requirements of an ongoing elective program should be modified does not render a local entity's decision whether to continue its participation in the modified program any less voluntary." [Fn. omitted.] Rather, the courts have continued to find that the Legislature's decision to withdraw or reduce state funding previously available to local agencies does not violate the purpose behind article XIII B, section 6 and, thus, does not, in itself, constitute a reimbursable state mandate.

Finally, the claimant argues that *if* the Legislature intended SEMS to be voluntary, then the Legislature would not have required counties to be responsible for the "middle cog of the process" at the operational level of SEMS. The claimant contends that "[t]he County is required to be an integral part of the process." The Commission disagrees with this argument. The test claim statute, Government Code section 8607, provides that SEMS must include "the operational area concept, as defined in [Government Code] Section 8559." Government Code section 8559 was enacted in 1970 (and derives from the 1943 California Disaster Act in the Military and Veterans Code). Section 8559 defines an "operational area" as "an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area." OES included the operational area concept in SEMS when it adopted the regulations to implement the program. The "operational area level" of SEMS is defined in section 2409 of the OES regulations to mean "an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area." The regulation also states that "each county geographic area is designated as an operational area." The regulation, however, recognizes that a local agency's participation in the SEMS program is not mandatory with the language in subdivision (c), which expressly states that "[t]he operational area authority and responsibility under SEMS *shall not be affected by non-participation of any local government(s) within the operational area*." (Emphasis added.)

Therefore, the Commission finds that Government Code section 8607 and the SEMS regulations adopted by OES (Code of Regs., tit. 19, §§ 2400-

> 2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.[163]

In 2007, the Los Angeles County Superior Court upheld the Commission's decision, finding that:

> The decision by the Commission on State Mandates is correct because the County of San Bernardino is not mandated, by either the statute or SEMS, to provide any particular level of disaster prevention or relief to its residents. The County may either obtain additional funding from the state or federal government by implementing SEMS, or it may elect not do so and provide only the level of disaster preparedness and relief that it can afford to provide without such funding. Under such circumstances, the legislature is not required to reimburse the County for the expense, if any, of implementing SEMS. DEPARTMENT OF FINANCE V. COMMISSION ON STATE MANDATES 30 Cal.4th 727 (2003).[164]

The court's decision was not appealed.

In 2006, the Legislature added section 8608 to the Government Code to require Cal OES to approve and adopt, and to incorporate into SEMS, the California Animal Response Emergency System (or CARES), which was developed under the oversight of the Department of Food and Agriculture.[165] The purpose of the bill was described as follows:

> According to the author's office, one of the lessons of Hurricane Katrina is that there must be a plan in place for the evacuation of companion animals and livestock. In California, with the ever-present threat of fire, flood and earthquake, it is incumbent upon state policymakers to ensure that state and local governments have taken the necessary steps to protect animals, as well as their owners, in the event of disaster.
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> Further, the author states that a common hindrance to efficient evacuations is the reluctance of potential evacuees to abandon their animals. This reluctance shows rescue efforts and puts both rescuers and disaster victims at further risk. According to a 2001 study of Yuba County following the 1997 storms of El Nino, 80% of the people who re-entered the evacuated area did so to rescue their pets. Emergency management

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[163] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS),* 03-RC-4506-01 (CSM-4506), pages 20-22.

[164] Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[165] Statutes 2006, chapter 604.

cannot disregard the consequences, for rescuers and victims alike, of ignoring animals in disaster planning.[166]

Thus, during a disaster, local agencies manage animal response using SEMS and if local resources are exhausted, local agencies request help through Cal OES. Under the state's emergency plan, the CARES unit at CDFA then provides operation guidance to assist with all aspects of animal care in the event of a disaster or emergency with the assistance of other agencies and volunteer organizations under the SEMS program.[167]

3. Required Updates to and Review of *County* Emergency Plans.

In recent years, legislation has been enacted to address county local emergency plans following a 2019 audit by the Bureau of State Audits (BSA), which found the following:

- The California's Emergency Services Act does not require local jurisdictions to develop emergency plans. However, FEMA states that leaders in jurisdictions are responsible for taking necessary and appropriate actions to protect people from threats and hazards, which would include natural disasters.[168] In addition, inadequate plans and insufficient planning are proven contributors to failure and deficiencies in a county's efforts to prepare for a natural disaster can impair its ability to respond when the disaster occurs.[169]
- Three counties audited did not follow key emergency practices.[170]

  "The State's emergency management system designates local governments – such as counties – primarily responsible for emergency preparedness and response. In that role, the local governments should develop emergency response plans (emergency plans) that adequately prepare them to protect all residents, including the most vulnerable. We reviewed the extent to which three counties' – Butte County (Butte), Sonoma County (Sonoma), and Ventura County (Ventura) – emergency planning incorporated best practices and the effect that not following those best practices had on their responses to recent wildfires. We determined that the counties have not adequately followed key practices for emergency planning, including having emergency plans for alerting, evacuating, and sheltering residents and assessing the needs of their communities in advance of disaster events. As a result, the counties are less prepared for future

[166] Exhibit X (1), Assembly Floor Analysis on Assembly Bill 450, Concurrence in Senate Amendments, August 22, 2006, (2006-2007 Reg. Sess.), pages 1-2.

[167] Exhibit X (10), California Department of Food and Agriculture, CARES, page 1.

[168] Exhibit X (2), BSA Audit 2019, page 21.

[169] Exhibit X (2), BSA Audit 2019, page 8.

[170] Exhibit X (2), BSA Audit 2019, pages 21-22.

natural disasters, which may place the residents for whom they are responsible at greater risk of harm."[171]

BSA recommended that:

- The Legislature should require Cal OES to review all counties' emergency plans to determine if they are consistent with best practices and provide necessary technical assistance to counties.
- The Legislature should require Cal OES to involve organizations representing individuals with a variety of access and functional needs in the development of the state emergency plan and guidance for local jurisdictions and to annually disseminate guidance based on lessons learned from natural disasters.
- Each county should revise its emergency plans by following best practices for planning to meet the access and functional needs of its residents, including involving people with those needs in its planning process and developing strategies for alerting, evacuating, and sheltering them.
- Cal OES should issue the guidance related to access and functional needs to local jurisdictions that state law requires it to produce.[172]

In 2020, the Legislature added section 8593.9 to require Cal OES to develop best practices for counties developing and updating county emergency plans, and to develop a process for a county to request the office to review its emergency plan.[173] Cal OES is required to provide technical assistance and feedback regarding the sufficiency of the county's emergency plan with the following elements:

(1) Whether the plan is consistent with the office's proposed best practices.

(2) Whether the plan protects and accommodates vulnerable populations during natural disasters.

(3) Whether the plan has established procedures for alerting, evacuating, and sheltering individuals during an emergency.

(4) Any other necessary and appropriate element, as determined by the office.[174]

Cal OES issued "Best Practices for County Emergency Plans" in November 2021. The document defines "best practices for county emergency plans" as "methods or techniques which have generally been accepted by diverse groups of professionals and practitioners well-versed in emergency management as superior to any alternatives because it produces results that are prescribed as being correct or most effective or has

[171] Exhibit X (2), BSA Audit 2019, page 7.

[172] Exhibit X (2), BSA Audit 2019, pages 10-11.

[173] Government Code section 8593.9, as added by Statutes 2020, chapter 257.

[174] Government Code section 8593.9(b), as added by Statutes 2020, chapter 257.

become a standard way of doing things."[175] Cal OES' best practices include the following:

- "It is a California best practice for each county to have a current emergency plan for the county's response to emergencies and disasters. This plan should be capable of execution during both emergency and non-emergency situations, such as pre-planned special events, with inter-agency coordination."[176]
- "It is a California best practice for county emergency planners to reference leading national, federal, state, and industry standards when planning for disasters. . . . *Is the county's emergency plan consistent with FEMA's Comprehensive Preparedness Guide 101*?"[177]
- "It is a California best practice for the county's emergency plan to be reviewed and updated regularly."[178]
- "It is a California best practice for counties to have a Care and Shelter plan as an annex to the county's emergency plan, or as a separate standalone document. The plan should detail the plans and procedures to ensure consistency of approach towards shelter management. [Fn. omitted.] The existing shelter inventory should identify shelter sites that have backup generation capabilities for future de-energization events.""[179] Shelter plans should provide services for populations with disabilities; for example, by "allowing service animals inside shelters."[180] The document further notes that some jurisdictions have delegated the responsibility of shelter operations to the American Red Cross.[181]
- Counties should identify best methods of supporting pet populations.[182]

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[175] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 4.

[176] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 11.

[177] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 15.

[178] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 24.

[179] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 67.

[180] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 68.

[181] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 67.

[182] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 69.

- "It is a California best practice for counties to pre-identify facilities which meet minimum standards and can be used as evacuation shelters."[183]

Effective January 1, 2020, the Legislature added section 8593.3.5. to the Government Code, requiring counties, upon their next update to their emergency plans, to integrate cultural competence into the plan by addressing how culturally diverse communities are served by several services, including "emergency evacuation and sheltering" services.[184]

In 2021, the Legislature added section 8593.3.2. to require counties to send a copy of their emergency plans to Cal OES on or before March 1, 2022, and upon any update to the plan after that date. The statute requires that on or before January 1, 2023, Cal OES is required to conduct a review of the emergency plans of at least ten counties that are of high risk for natural disasters. On or before January 1, 2024, and annually thereafter, Cal OES is required to conduct a review of the emergency plans of at least ten counties. And on or before January 1, 2028, Cal OES shall conduct a review of the emergency plan of each county.[185] The review covers the following:

- Whether the plan substantially conforms to or exceeds the recommendations in the Federal Emergency Management Agency Comprehensive Preparedness Guide 101 (Gov. Code 8610(c)(2).)
- Whether the plan is consistent with Cal OES proposed best practices (Gov. Code 8593.9(b)(1).)
- Whether the plan protects and accommodates vulnerable populations during natural disasters. (Gov. Code 8593.9(b)(2).)
- Whether the plan has established procedures for alerting, evacuating, and sheltering individuals during an emergency. (Gov. Code 8593.9(b)(3).
- The status of the county emergency alert system, including the different alerting systems used and the number of individuals signed up for each system. (Government Code section 8593.3.2.(b)(1).).
- Evacuation routes and plans and shelter-in-place plans, including preparations for evacuating or caring for individuals with access and functional needs. (Gov. Code 8593.3.2(b)(2).)

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[183] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 71.

[184] Government Code section 8593.3.5(a) (Stats. 2019, ch. 402). "Cultural competence" is defined as "the ability to understand, value, communicate with, and effectively interact with people across cultures in order to ensure that the needs of all community members are addressed, with priority given to "culturally diverse communities." "Cultural competence" includes, but is not limited to, being respectful and responsive to the cultural and linguistic needs of diverse population groups." (Gov. Code, § 8593.3.5(c).)

[185] Government Code section 8583.3.2, added by Statutes 2021, chapter 744.

- Efforts at community outreach to prepare communities and individuals to take action in the event of an emergency or a disaster. (Gov. Code 8593.3.2(b)(4).)
- Plans to ensure the health and safety of citizens during power outages. (Gov. Code 8593.3.2(b)(5).)
- Any other necessary and appropriate element, as determined by Cal OES. (Gov. Code 8593.9(b)(4).)[186]

Cal OES also states that its review of county emergency plans includes a review for alignment with SEMS and the federal NIMS program, which is met by following FEMA's Comprehensive Preparedness Guide 101.[187]

Counties are required by Government Code section 8593.3.2 to develop and revise their emergency plans to address the issues that Cal OES identifies in its review.[188]

4. Requirements for Counties to Establish Public Respite Facilities During Weather-Related Events and Cal OES' 2022 Extreme Temperature Response Plan and Guidance for Local Governments to Manage Extreme Temperatures by Providing Cooling and Warming Facilities to Accommodate Individuals with Domestic Pets.

In 2021, the Legislature added 8593.25 to require counties, in advance of the next update to their emergency plans, to establish criteria, locations, and measurements of effectiveness for public respite facilities during poor air quality and other weather-related events.[189]

As last amended in 2022, Government Code section 8593.3 requires counties, upon the next update to their emergency plans and as part of the required integration of access and functional needs populations into county emergency plans,[190] to:

- Identify emergency evacuation procedures that ensure that local community resilience centers are prepared to serve communitywide assets during extreme heat events and other disasters, and designate available locations to provide respite to individuals during emergencies including during extreme heat and

[186] Exhibit X (6), Cal OES Fact Sheet, Updates to County Emergency Plan Legislation, page 4.

[187] Exhibit X (6), Cal OES Fact Sheet, Updates to County Emergency Plan Legislation, page 5.

[188] Government Code section 8593.3.2(d).

[189] Government Code section 8593.25, as added by Statutes 2021, chapter 412.

[190] Government Code section 8593.3(f)(1) defines "Access and functional needs population" as "individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant."

cold.[191] "Local community resilience center" is defined to mean "a hydration station, cooling center, clean air center, respite center, community evacuation and emergency response center, or similar facility established to mitigate the public health impacts of extreme heat and other emergency situations exacerbated by climate change, such as wildfire, power outages, or flooding, on local populations."[192]

In 2022, Cal OES issued its Extreme Temperature Response Plan as an annex to the State Emergency Plan, which includes guidance and best practices for local governments to manage extreme temperatures.[193] The plan recognizes the need to:

- Communicate and coordinate between state agencies and local government.
- Mobilize resources and initiate actions in advance of local requests.
- Support the local government's actions according to SEMS.[194]

The plan recognizes three phases of activation: Phase I is seasonal readiness, Phase II is heat or cold/freeze alert, and Phase III is heat or cold/freeze warning. These phases are activated based on the severity of the risk and "considers individuals who are at greater risk for serious illness from extreme temperatures, individuals with an access or functional need, the general population, as well as animals and livestock."[195]

The importance of coordination and communication between levels of government through SEMS in an extreme temperature event is explained in the plan as follows:

> All state actions should be coordinated with the affected local governments through the affected regions, and the local coordination links used by key state departments/agencies. It is essential that the affected local governments and all the key state departments/agencies are informed of actions taken during Phase II and Phase II by the state. It is equally important for the state to be apprised of local actions. These communications are facilitated through the Standardized Emergency Management System (SEMS) functions, the affected regions, activated EOCs, Cal EOC reports (online) oat the region and SOC, and by phone calls, texts, and various other notifications to constituents.[196]

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[191] Government Code section 8593.3(a), as last amended by Statutes 2022, chapter 247. The requirements in section 8593.3(a) are imposed on "A county, including a city and county" and the only consolidated city and county in California is the City and County of San Francisco.

[192] Government Code section 8593.3(f)(3), as last amended by Statutes 2022, chapter 247.

[193] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 7.

[194] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 7.

[195] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 8.

[196] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 27.

State actions considered during extreme temperature events include identifying state assets that can be used as cooling or warming centers and opening and staffing these centers.[197]

The local guidelines and best practices are attached as Appendix B to the State's Extreme Temperature Response Plan, which is introduced as follows:

> This plan recognizes that local agencies may have a system for managing extreme temperatures. It also recognizes that those systems should be consistent with SEMS. It is the intent of this guidance to provide a tool to further assist local efforts and to better coordinate with efforts initiated by state departments/agencies. The guidance is intended to be flexible to fit unique community needs.[198]

The guidelines include recommendations for local government cooling or warming centers to accommodate individuals with domestic pets, as follows:

- Ensure during phase I, the seasonal readiness stage, that the facilities identified for cooling or warming centers will be available, and identify the services provided in these facilities to accommodate individuals with disabilities, service animals, and domestic pets.[199]
- Activate local extreme temperature response plans during phase II, the heat or cold/freeze alert stage, identify cooling or warming centers, work with volunteer groups to identify additional cooling centers that are ADA compliant and may be needed, and coordinate planning with local transportation providers.[200] Local government may also request mutual aid through SEMS.[201]
- During phase III, the heat or cold/freeze warning stage, monitor and determine the need for additional warming or cooling centers and resources as needed, coordinate with neighboring jurisdictions and Cal OES, and "[e]nsure impacts to pets and animals due to extreme temperatures are addressed at cooling/warming centers."[202]

The guidelines also list as "critical information" during an extreme weather event, cooling and warming center locations, times of operation, and instructions.[203]

The plan explains that extraordinary emergency costs, such as personnel or equipment rental, incurred by local government in response to an extreme temperature-related

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[197] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 34.

[198] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 73.

[199] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 76.

[200] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 78.

[201] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 79.

[202] Exhibit X (4), Cal OES Extreme Temperature Response Plan, pages 80-81.

[203] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 35.

disaster may potentially be recovered on a cost share basis under the CDAA and the federal Stafford Act (which is explained in the next section) if the Governor proclaims a state of emergency and requests a declaration of a major disaster.[204] Eligible costs may include establishing and staffing cooling and warming centers as follows:

> Extraordinary emergency costs (such as overtime or equipment rental) incurred by local government in response to an extreme temperature-related disaster may potentially be recovered (on a cost share basis) under the California Disaster Assistance Act (CDAA) when the Governor has proclaimed a State of Emergency. Eligible costs may include the extra costs related to establishing cooling or warming centers, staffing the EOCs, renting generators, air conditions, or heaters for the emergency sheltering effort, emergency public information costs, fatality management costs, and overtime costs for police, fire/rescue, and medical activities directly related to extreme temperatures. Additionally, funding can be provided (on a cost-share basis) to repair publicly owned facilities or infrastructure if damaged by the extreme temperatures. This includes damaged transformers and other electrical equipment owned by a public utility.
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> If the response and repair costs meet federal thresholds, the Governor may request, through FEMA, a Presidential Declaration of a Major Disaster, opening federal funds for these same applications under the Stafford Act. The federal Emergency Repair Program of Federal Highways Administration may be independently activated so highways in the Federal Aid System can be covered for heat or cold damage.[205]

B. Federal Disaster Relief Under the Stafford Act; the 2006 PETS Act, which Requires FEMA to Ensure that State and Local Emergency Preparedness Operational Plans Address the Needs of Individuals with Household Pets Prior to, During, and Following a Major Disaster or Emergency; Federal Grant Funds for the Development of Local Emergency Plans; and FEMA's 2010 Comprehensive Preparedness Guide.

1. Federal Public Assistance Under the Stafford Act Following Major Disaster and Emergency Declarations.

In 1988, Congress passed the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), which authorizes the President to issue major disaster and emergency declarations that activate federal assistance to states and local governments.[206] Congress enacted the Stafford Act to "provide an orderly and continuing means of assistance by the Federal Government to State and local

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[204] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 37.

[205] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 37.

[206] United States Code, title 42, section 5121 et seq.; Code of Federal Regulations, title 44, Subpart B.

governments to carry out their responsibilities to alleviate the suffering and damage which result from such disasters" by "achieving greater coordination and responsiveness of disaster preparedness and relief programs" and "encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments."[207]

The Act provides that upon request from the governor of a state affected by a major disaster requiring federal assistance, the President may declare that a major disaster or emergency exists.[208] The request shall include confirmation that the governor has taken appropriate action under state law and directed the execution of the state emergency plan.[209] "State Emergency Plan" is defined in FEMA regulations to mean the "plan which is designated specifically for State-level response to emergencies or major disasters and which sets forth actions to be taken by the State and local governments, including those for implementing Federal disaster assistance."[210] Federal regulations further require states to set forth in their emergency plans all responsibilities and actions specified in federal law that are required of the state and its political subdivisions to prepare for and respond to major disasters and emergencies and to facilitate the delivery of federal disaster assistance.[211]

Factors considered when evaluating a governor's request for a major disaster declaration include the estimated cost of the assistance, localized impacts, insurance coverage in force or should have been in force as required by law, hazard mitigation and the extent to which state and local government measures contributed to the reduction of disaster damages, and any recent disasters.[212] The Governor shall also furnish information on the nature and amount of state and local resources which have been or will be committed to alleviating the results of the disaster and shall certify that, for the current disaster, state and local government obligations and expenditures will comply with all applicable cost sharing requirements of the Stafford Act.[213]

The President can thereafter direct any federal agency to utilize its resources granted to it under federal law in support of state and local assistance efforts and assist state and local governments in the distribution of medicine, food, and other consumable supplies

[207] United States Code, title 42, section 5121(b).

[208] United States Code, title 42, section 5170.

[209] Code of Federal Regulations, title 44, sections 206.35(c), 206.36(c).

[210] Code of Federal Regulations, title 44, section 206.2(a)(24).

[211] Code of Federal Regulations, title 44, section 206.4.

[212] Code of Federal Regulations, title 44, section 206.48(a).

[213] United States Code, title 42, section 5170(a).

and emergency assistance.[214] The federal share of assistance shall be "not less than 75 percent of the eligible cost of such assistance."[215]

a. The Federal Public Assistance Program.

The federal Public Assistance (PA) Program is FEMA's largest grant program under the Stafford Act providing funds of not less than 75 percent of the eligible costs to assist communities responding to and recovering from major disasters or emergencies declared by the President.[216] The program provides funding for state and local governments for emergency assistance to save lives and protect property and assists with funding for permanently restoring community infrastructure affected by a federally declared incident.

FEMA's 2021 report to Congress on its Public Assistance Program states that public assistance has been authorized in every county and municipality in the United States:

> The Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Program is central to contemporary U.S. federal emergency and disaster relief. Over the past 10 years, PA has been authorized in every county, parish, and municipality in the United States. The reconstruction of entire infrastructure systems following Hurricane Katrina, mass evacuations ahead of California wildfires, and emergency medical care during the Coronavirus Disease 2019 (COVID-19) pandemic were all funded through PA.[217]

FEMA publishes a "Public Assistance Program and Policy Guide" (PAPPG), which "provides a robust and streamlined guide for evaluating eligibility under the public assistance program."[218] The claimant has submitted the fifth version of the PAPPG for incidents declared on or after January 6, 2025.[219] As relevant here, projects that are eligible for federal funding under the Public Assistance Program include:

- Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide one-time transportation to evacuate survivors and their household pets and service and assistance animals to evacuation facilities or emergency shelters from pre-established pick-up locations. This includes

[214] United States Code, title 42, sections 5170a and 5170b.

[215] United States Code, title 42, section 5170b(b); Code of Federal Regulations, title 44, section 206.47(a).

[216] Exhibit A, Test Claim, page 72.

[217] Exhibit X (15), FEMA's Public Assistance Program, a Primer and Considerations for Congress, page 1.

[218] Exhibit A, Test Claim, page 38.

[219] Exhibit A, Test Claim, pages 36 et al.

standby time for drivers and contracted equipment while waiting to transport survivors.[220]

- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals.[221]
- The following "congregate shelter costs:"
    - Minor facility modifications if necessary to make the facility functional as household pet shelter.[222]
    - Veterinary and animal care staff in shelters.[223]
    - Food, water, bowls for household pets.[224]
    - Medication for animal decontamination and parasite control.[225]
    - Crates, cages, leashes, and animal transport carriers.[226]
    - Animal cleaning tables and supplies.[227]
    - Shelter management.[228]
    - Supervision of paid and volunteer staff.[229]
    - Cleaning the shelter, linens, and animal crates.[230]
    - Shelter safety and security.[231]
    - Emergency medical, crisis intervention/psychological first aid, and veterinary services for household pets.[232]

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[220] Exhibit A, Test Claim, page 179.

[221] Exhibit A, Test Claim, page 179.

[222] Exhibit A, Test Claim, pages 180-181.

[223] Exhibit A, Test Claim, page 181.

[224] Exhibit A, Test Claim, page 181.

[225] Exhibit A, Test Claim, page 181.

[226] Exhibit A, Test Claim, page 182.

[227] Exhibit A, Test Claim, page 182.

[228] Exhibit A, Test Claim, page 182.

[229] Exhibit A, Test Claim, page 182.

[230] Exhibit A, Test Claim, page 182.

[231] Exhibit A, Test Claim, page 182.

[232] Exhibit A, Test Claim, pages 182-183.

As explained below, these expenses have been eligible for federal reimbursement since 2006.

b. The 2006 PETS Amendment to the Stafford Act requires FEMA to ensure that state and local emergency preparedness operational plans address the needs of individuals with household pets prior to, during, and following a major disaster or emergency.

In 2006, Congress enacted the Pets Evacuation and Transportation Standards (PETS) Act, largely in response to failures during Hurricane Katrina, when many owners would not evacuate because they did not want to leave their pets behind.[233]

The PETS Act amended the Stafford Act, effective October 10, 2006, to require FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that these plans address the needs of individuals with household pets prior to, during, and following a major disaster or emergency.[234] The PETS Act also:

- Authorizes FEMA to study and develop emergency preparedness measures designed to afford adequate protection of life and property, including "plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency."[235]
- When approving essential assistance to meeting immediate threats to life and property resulting from a major disaster, federal assistance may provide rescue, care, shelter and essential needs to individuals with household pets and service animals and to such pets and animals.[236]

FEMA's Disaster Assistance Policy, issued in 2007 after the PETS legislation was enacted, identifies the expenses related to state and local governments' emergency pet evacuation and sheltering activities that may be eligible for reimbursement following a major disaster or emergency declaration. The policy defines "congregate household pet shelters" (a phrase used in the 2025 PAPPG summarized above)[237] as "[a]ny private or public facility that provides refuge to rescued household pets and the household pets of shelterees in response to a declared major disaster or emergency."[238] FEMA's 2007 Disaster Assistance Policy identifies the following expenses eligible for federal reimbursement in line with the PETS Act:

> **Household Pet Rescue.** State and local governments may conduct rescue operations for household pets directly or they may contract with

[233] Public Law No. 109-308 (Oct. 10, 2006).

[234] United States Code, title 42, section 5196b(g).

[235] United States Code, title 42, section 5196(e).

[236] United States Code, title 42, section 5170b(a)(3)(J).

[237] Exhibit A, Test Claim, page 180.

[238] Exhibit X (14), FEMA's 2007 Disaster Assistance Policy, page 2.

other providers for such services. Eligible costs include, but are not limited to, the following:

1. Overtime for regular full-time employees.
2. Regular time and overtime for contract labor (including mutual aid agreements) specifically hired to provide additional support required as a result of the disaster.
3. The use of applicant-owned or leased equipment (such as buses or other vehicles) to provide eligible pet transportation to congregate pet shelters may be reimbursed according to 44 CFR § 206.228(1)(a) (does not include operator labor). The cost of leasing equipment for this purpose may also be eligible for reimbursement.

Congregate Household Pet Sheltering. State and local governments may conduct sheltering operations for pets directly, or may contract with other sheltering providers for such services. Eligible Category B congregate sheltering costs may include, but are not limited to, the *reasonable* costs for:

1. Facilities
    - Minor modifications to buildings used for congregate household pet sheltering, if necessary to provide increased capacity for the accommodation of shelterees' household pets.
    - Facility lease or rent.
    - Increase in utility costs, such as power, water, and telephone.
    - Generator leas and operation (but not purchase).
    - Shelter safety and security.
    - Shelter management.
    - Shelter and crate/cage cleaning.
2. Supplies and Commodities. Eligible items are those needed for, and used directly on, the declared disaster, and are reasonable in both cost and need. Examples include:
    - Food, water, and bowls.
    - Crates/Cages.
    - Pet transport carriers.
    - Animal cleaning tables and supplies.

- Medication for animal decontamination and parasite control to ensure that the animal is not a health threat to humans or other animals.

3. Eligible labor. If the regular employees of an eligible applicant perform duties in direct support of congregate pet sheltering operations, any overtime pay related to such duties is eligible for reimbursement. However, the straight-time pay of these employees is not eligible. Regular-time and overtime for contract labor, including mutual aid agreements, specifically hired to provide additional support required as a result of the disaster or emergency is also eligible for reimbursement.

4. Equipment. The use of applicant-owned or leased equipment (such as buses, trucks, or other vehicles) to provide eligible pet evacuation or sheltering support may be reimbursed according to 44 44 CFR § 206.228(1)(a) (does not include operator labor). The cost of leasing equipment may also be an eligible expense for reimbursement.

5. Emergency Veterinary Services. For the purposes of screening health of household pets and service animals, and assessing and treating minor illnesses and injuries, congregate pet shelters may be staffed with emergency veterinary teams. The following costs related to the provision of emergency veterinary services in a congregate pet sheltering environment are eligible for reimbursement:

   - Veterinary diagnosis, triage, treatment, and stabilization.
   - Provision of first aid, including materials (bandages, etc.).
   - Medicine.
   - Supervision of paid and volunteer veterinary staff.
   - Vaccinations administered to protect the health and safety of congregate shelter and supporting emergency workers including but not limited to tetanus and hepatitis.
   - Vaccinations administered to protect the health and safety of congregate shelter pets for transmissible or contagious diseases including but not limited to Bordetella/kennel cough.

6. Transportation. Transportation of evacuees' household pets and service animals to congregate shelters from pre-

established pickup locations is an eligible expense when the means of transportation used is the most cost-effective available.

7. Shelter Safety and Security. Additional reimbursable safety and security services may be provided at congregate pet shelters, based upon need.

8. Cleaning and Restoration. The costs (to the Applicant) to clean, maintain, and restore a facility to pre-congregate pet shelter condition are eligible.

9. Removal and Disposal of Animal Carcasses. The costs (to the Applicant) to remove and dispose of animal carcasses in a safe and timely manner and in compliance with applicable laws and regulations are eligible.

10. Cataloging/Tracking System for Pets. The reasonable costs (to the Applicant) for tracking animals at congregate pet shelters for the purpose of reuniting them with their owners are eligible.[239]

2. Federal Grant Funding and Technical Assistance for the Development of Emergency Plans.

The Stafford Act also authorizes the President to provide technical assistance and make grants available to states and their political subdivisions for the development of emergency plans and programs for disaster preparedness and prevention on the condition that the state set forth a comprehensive and detailed state program for preparation against and assistance following emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments.[240] The stated purpose of these provisions is as follows:

> The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide

[239] Exhibit X (14), FEMA's 2007 Disaster Assistance Policy, pages 3-5.

[240] United States Code, title 42, sections 5131, 5133.

necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.[241]

To assist in carrying out this purpose, the Stafford Act authorizes FEMA to make financial contributions to the states for necessary and essential state and emergency preparedness personnel and administrative expenses, on the basis of approved plans "which shall be consistent with the Federal emergency response plans for emergency preparedness."[242] To obtain financial assistance, the requirements, which include the development of state and local emergency preparedness operational plans pursuant to standards approved by FEMA, are as follows:

- Provide, pursuant to state law, that the plan shall be in effect in all political subdivisions of the state and be mandatory on them and be administered or supervised by a single state agency.
- Provide that the state shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with state law.
- *Provide for the development of state and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by FEMA.*
- Provide for the employment of a full-time emergency director, or deputy director, by the state.
- Provide that the state shall make such reports in such form and content as FEMA may require.
- Make available to duly authorized representatives of FEMA and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.
- Include a plan for providing information to the public in a coordinated manner.[243]

3. FEMA's Comprehensive Preparedness Guide 101.

FEMA's Comprehensive Preparedness Guide 101 "is the foundation for state, territorial, tribal, and local emergency planning in the United States" and, thus, sets the standards for state and local emergency plans.[244] FEMA "recommends that teams responsible for developing EOPs [Emergency Operations Plans] use CPG 101 to guide their efforts. It provides a context for emergency planning in light of other existing plans and describes a universal planning process."[245]

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[241] United States Code, title 42, section 5195.

[242] United States Code, title 42, section 5196b(a).

[243] United States Code, title 42, section 5196b(b), emphasis added.

[244] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 5.

[245] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 9.

The Guide explains the importance of local emergency plans:

> Planners achieve unity of purpose through coordination and integration of plans across all levels of government, nongovernmental organizations, the private sector, and individuals and families. This supports the fundamental principle that, in many situations, emergency management and homeland security operations start at the local level and expand to include Federal, state, territorial, tribal, regional, and private sector assets as the affected jurisdiction requires additional resources and capabilities. Plans must, therefore, integrate vertically to ensure a common operational focus. Similarly, horizontal integration ensures that individual department and agency EOPs [Emergency Operations Plans] fit into the jurisdiction's plans, and that each department or agency understands, accepts, and is prepared to execute identified mission assignments. Incorporating vertical and horizontal integration into a shared planning community ensures that the sequence and scope of an operation are synchronized.[246]

As indicated above, state law requires Cal OES to review any city and county emergency plans adopted to determine if the plans comply with or exceed the recommendations in FEMA's Comprehensive Preparedness Guide 101, and further requires counties to send updated emergency plans to Cal OES for review and to revise their emergency plans to address the issues that Cal OES identifies in its review.[247]

The 2010 version of FEMA's Comprehensive Preparedness Guide 101 implements the PETS Act amendments to the Stafford Act and recognizes the following: "A key consideration is the integration of household pets and service animals into the planning process. Many individuals make decisions on whether to comply with protective action measures based on the jurisdiction's ability to address the concerns about their household pets and service animals."[248] The Guide states: "Planners should check the written plan for its conformity to applicable regulatory requirements and the standards of Federal or state agencies, as appropriate," and when conducting this review, planning for individuals with household pets "are critical to each component of the planning process."[249]

The Guide contains a section on "Incorporating Household Pets and Service Animals," which recommends that emergency plans address the following:

- Preparedness
    - Does the plan describe the partnership between the jurisdiction's emergency management agency, the animal control authority, the mass

[246] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 9.

[247] Government Code sections 8583.3.2, 8610(c)(2).

[248] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 13.

[249] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 65.

care provider(s), and the owner of each proposed congregate household pet sheltering facility?

- Does the plan have or refer to an MOA/MOU or MAA that defines the roles and responsibilities of each organization involved in household pet and service animal response?
- Do organizations with agreed upon responsibilities in the plan have operating procedures that govern their mobilization and actions?
- Does the plan recommend just-in-time training for spontaneous volunteers and out-of-state responders?
- Does the plan encourage household pet owners and service animal owners to make arrangements for private accommodations for themselves and their household pets and service animals prior to a disaster or emergency situation?

- Evacuation Support
  - Does the plan address the evacuation and transportation of household pets from their homes or by their owners or those household pets rescued by responders to congregate household pet shelters?
  - Does the plan address how owners will be informed where congregate household pet shelters are located and which shelter to use?
  - Does the plan provide for the conveyance of household pets or service animals whose owners are dependent on public transportation?
  - Does the plan address how household pets that are provided with evacuation assistance are registered, documented, tracked, and reunited with their owners if they are separated during assisted evacuations? – Does the plan address the responsibility of transportation providers to transport service animals with their owners?
- Shelter Operations
  - Does the plan identify the agency responsible for coordinating shelter operations?
  - Does the plan provide guidance to human shelter operators on the admission and treatment of service animals?
  - Does the plan identify an agency in the jurisdiction that regulates nonemergency, licensed animal facilities (e.g., animal control shelters, nonprofit household pet rescue shelters, private breeding facilities, kennels)?
  - Does the plan establish criteria that can be used to expeditiously identify congregate household pet shelters and alternate facilities?

- Does the plan provide guidance about utility provisions, such as running water, adequate lighting, proper ventilation, electricity, and backup power, at congregate household pet shelters?
- Does the plan include mechanisms or processes to reduce/eliminate the risk of injury by an aggressive or frightened animal, the possibility of disease transmission, and other health risks for responders and volunteers staffing the congregate household pet shelter?
- Does the plan recommend a pre-disaster inspection and development of agreements for each congregate household pet facility? – Does the plan provide for the care and maintenance of each facility while in use as a shelter?
- Does the plan identify equipment and supplies that may be needed to operate each congregate household pet shelter, as well as supplies that household pet owners may bring with them to the congregate shelter?
- Does the plan provide for the physical security of each congregate household pet facility, including perimeter controls and security personnel?
- Does the plan provide for acceptance of donated resources (e.g., food, bedding, containers)?
- Does the plan provide for the acquisition, storage, and security of food and water supplies?
- Does the plan provide for the diverse dietary needs of household pets?

- Registration and Animal Intake
  - Does the plan establish provisions for the sheltering of unclaimed animals that cannot be immediately transferred to an animal control shelter?
  - Does the plan provide for segregation or seizure of household pets showing signs of abuse?
  - Does the plan provide for household pet registration?
  - Does the plan provide for installation and reading of microchip technology for rapid and accurate identification of household pets?
  - Does the plan provide for technical consultation/supervision by a veterinarian or veterinary technician as official responders?
  - Does the plan identify the need for all animals to have a current rabies vaccination?
  - Does the plan provide for the case when non-eligible animals are brought to the shelter?

- Animal Care
    - Does the plan provide for the housing of a variety of household pet species (e.g., size of crate/cage, temperature control, appropriate lighting)?
    - Does the plan provide for separation of household pets based on appropriate criteria and requirements?
    - Does the plan provide for the consultation of a veterinarian or animal care expert with household pet sheltering experience regarding facility setup and maintenance?
    - Does the plan provide for the setup and maintenance of household pet confinement areas (e.g., crates, cages, pens) for safety, cleanliness, and control of noise level?
    - Does the plan recommend the setup of a household pet first aid area inside each shelter?
    - Does the plan provide for the control of fleas, ticks, and other pests at each congregate household pet shelter?
    - Does the plan provide criteria for designating and safely segregating aggressive animals?
    - Does the plan provide for the segregation or quarantine of household pets to prevent the transmission of disease?
    - Does the plan recommend the relocation of a household pet to an alternate facility (e.g., veterinary clinic, animal control shelter) due to illness, injury, or aggression?
    - Does the plan recommend providing controlled areas (indoor or outdoor) for exercising dogs?
    - Does the plan provide for household pet waste and dead animal disposal?
    - Does the plan provide for the reunion of rescued animals with their owners?
    - Does the plan include mechanisms or processes to address the long-term care, permanent relocation, or disposal of unclaimed household pets?
- Public Information and Outreach
    - Does the plan provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters?
    - Does the plan provide for a public education program?
    - Does the plan provide for the coordination of household pet evacuation and sheltering information with the jurisdiction's public information officer or Joint Information Center?

- Does the plan provide for communication of public information regarding shelter-in-place accommodation of household pets, if available?

- Record Keeping
  - Does the plan define the methods of pre- and post-declaration funding for the jurisdiction's household pet and service animal preparedness and emergency response program?
  - Does the plan describe how to capture eligible costs for reimbursement by the Public Assistance Program as defined in Disaster Assistance Policy (DAP) 9523.19, Eligible Costs Related to Pet Evacuations and Sheltering?
  - Does the plan describe how to capture eligible donations for volunteer labor and resources as defined in DAP 9525.2, Donated Resources?
  - Does the plan describe how to capture eligible donations for mutual aid resources as defined in DAP 9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance?[250]

The Guide also contains a "Functional Annexes Content Guide," which contain "core functional support activities that should be incorporated" into the emergency plan. The Guide states the following:

> These annexes contain detailed descriptions of the methods that government agencies and departments follow for critical operational functions during emergency operations. Functional annexes support the EOP as they do hazard-specific annexes. *There are core functional support activities that should be incorporated, and specific functional support activities that support incident response.* The essence of these support functions should be incorporated into plans, rather than be stand-alone. The checklists in this section can be used for either functional annexes or emergency support function annexes.[251]

The Guide's Annex for "Mass Care, Emergency Assistance, Housing, and Human Services" contains a checklist with relevant provisions for sheltering persons with pets, which identifies the following same or similar information bulleted above:

- Identify and describe the actions that will be taken to identify, open, and staff emergency shelters, including temporarily using reception centers while waiting for shelters to open officially.
- Describe the agencies and methods used to provide essential care (e.g., food, water) to promote the well-being of evacuees throughout the entire process (including household pets and service animals).

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[250] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73.

[251] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 102, emphasis added.

- Identify and describe the actions that will be taken to care for household pets and service animals brought to shelters by evacuees.
- Describe the provisions for the sheltering of unclaimed animals that cannot be immediately transferred to an animal control shelter or when non-eligible animals are brought to a shelter.
- Identify and describe the actions that will be taken to segregate or seize household pets showing signs of abuse.
- Describe the method for household pet registration (including identification of a current rabies vaccination for all animals).
- Describe the criteria that can be used to expeditiously identify congregate household pet shelters and alternate facilities.
- Describe the method for utility provisions, such as running water, adequate lighting, proper ventilation, electricity, and backup power, at congregate household pet shelters.
- Identify and describe the actions that will be taken to address the risk of injury by an aggressive or frightened animal, the possibility of disease transmission, and other health risks for responders and volunteers staffing the congregate household pet shelter.
- Identify and describe the actions that will be taken to assess and provide animal care services (e.g., remove and dispose of carcasses, rescue/recover displaced household pets/livestock, provide emergency veterinary care, treat endangered wildlife) and the individuals/agencies used in this process (e.g., veterinarians, animal hospitals, Humane Society, state department of natural resources).
- Identify and describe the actions that will be taken to decontaminate patients, individuals with access and functional needs, children, and household pets and service animals for exposure to chemical, biological, nuclear, and radiological hazards both at the scene of the incident and at treatment facilities.
- Describe the plan for receiving those evacuated as a result of hazards in neighboring jurisdictions, including household pets and service animals.
- Identify and describe the actions that will be taken to provide for the care of the evacuees' household pets and service animals or to instruct evacuees on how to manage their household pets and service animals during an evacuation and in returning home when permitted.
- Describe the evacuation and transportation of household pets from their homes or by their owners or those household pets rescued by responders to congregate household pet shelters.
- Describe how household pet owners will determine where congregate household pet shelters are located and which shelter to use.

- Describe methods of transportation for household pets or service animals whose owners are dependent on public transportation.
- Describe how household pets that are provided with evacuation assistance are registered, documented, tracked, and reunited with their owners if they are separated during assisted evacuations.[252]

C. The Test Claim Statute; Government Code Section 8593.10, Added by Statutes 2023, Chapter 344.

The test claim statute became effective January 1, 2024, and was enacted to "provide guidance in increasing public awareness and establishing co-sheltering standards" for persons with pets during disasters or extreme weather events. Section 1 of the test claim statute contains the Legislature's findings and declarations as follows:

> SECTION 1. The Legislature finds and declares all of the following:
>
> (a) Natural disasters and extreme weather events, including wildfire, flooding, earthquakes, extreme heat, and extreme cold, present severe risks to public health and safety in California.
>
> (b) Pets are particularly vulnerable to extreme weather conditions, including increased risk of heatstroke-related illness and death.
>
> (c) A majority of Americans consider their pets to be family members. Research has found the most significant risk factor for evacuation failure is pet ownership. Research indicates that pet owners may refuse evacuation, attempt to illegally reenter evacuation sites to rescue their animals, and face grief, depression, and PTSD because of separation from their pet during an emergency (Heath and Linnabary, Challenges of Managing Animals in Disasters in the U.S., Mar. 26, 2015, 5 Animals 173).
>
> (d) Zoonotic disease risks increase when pets are abandoned or left to roam.
>
> (e) Gaps in public preparedness and cosheltering opportunities during a disaster or extreme weather event increase risks to public health and safety.
>
> (f) It is the intent of the Legislature in enacting this legislation to provide guidance in increasing public preparedness and establishing cosheltering standards so that Californians know that when a disaster or extreme weather event occurs, they will not have to choose between seeking safety and staying with their pets.[253]

[252] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 107-115.

[253] Exhibit A, Test Claim, page 32.

The test claim statute added section 8593.10 to the Government Code. The claimant pleads subdivisions (b)-(d) of section 8593.10. Subdivision (b)(1) requires a city or county, upon the next update to its emergency plan, to do the following:

A. A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.

B. A city "that has previously adopted an emergency plan designating emergency shelters" shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.

C. Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.

D. Whenever a city or county designates any number of emergency cooling centers, it shall, "to the extent practicable", designate at least one cooling center that can accommodate persons with pets.

E. Whenever a city or county designates any number of emergency warming centers, it shall, "to the extent practicable", designate at least one heating[254] center that can accommodate persons with pets.

Section 8593.10(b)(2) requires that an emergency shelter designated as able to accommodate persons with pets to be in compliance with both of the following:

A. Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.

B. Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.

Section 8593.10(c) and (d) address public information and notices, and require the following:

- Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets.
- A city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

[254] Statutes 2024, chapter 14 (AB 2232), amended this to change the word "heating" to "warming."

(3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets.

Bill analyses for the test claim statute state there may potentially be significant state-mandated costs, especially for counties that do not already have an existing shelter able to safely accommodate persons with pets:

> According to the Senate Appropriations Committee, unknown, potentially significant state reimbursable mandated costs for cities and counties to update their emergency plans, designate at least one emergency shelter able to accommodate persons with pets, and post specified information online (General Fund). There may also be significant costs for counties that do not already have an existing shelter able to safely accommodate persons with pets to provide an emergency shelter that complies with the mandates of this bill.[255]

III. Positions of the Parties

A. Claimant, County of Sacramento

The claimant contends the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and urges the Commission to approve the Test Claim. The claimant states that it updated its emergency plan in fiscal year 2023-2024 and incurred $3199.57 in costs for staff time to update the plan. The plan is entitled "Animal Sheltering Annex," is attached to the claimant's emergency plan, and was taken to the County Board of Supervisors for approval in May 2024.[256]

From June 4-6, 2024, the claimant also opened cooling centers in Sacramento and designated a shelter to accommodate persons with pets. The claimant complied with FEMA's disaster assistance policies, as required by the test claim statute, and incurred costs to staff the shelter to accommodate pets and purchased supplies including water for the site. Costs incurred for these three days totaled $1060.43.[257]

The claimant expects to incur costs totaling $58,186 In fiscal year 2024-2025, to operate emergency shelters, cooling centers, and warming centers required to be accommodated for persons with pets and accommodated in accordance with FEMA guidelines. The claimant lists the following required activities:

- Use of equipment, such as buses, trucks, or other vehicles (including accessible vehicles) to provide one time transportation to evacuate survivors and their

[255] Exhibit X (22), Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 781 (2023-2024 Reg. Sess.), page 6.

[256] Exhibit A, Test Claim, pages 14, 26 (Declaration of the claimant's Emergency Operations Coordinator). See also, Exhibit X (20), Sacramento County Animal Sheltering Annex, May 21, 2024.

[257] Exhibit A, Test Claim, pages 14, 26 (Declaration of the claimant's Emergency Operations Coordinator).

household pets and service and assistance animals to evacuation facilities or emergency shelters from pre-established pick-up locations. This includes standby time for drivers and contracted equipment while waiting to transport survivors.

- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips, GPS tags, and other electronic means for the purpose of tracking and reunification of evacuated animals.
- Sheltering costs, which includes the following: minor facility modifications if necessary to make the facility functional for pets; veterinary and animal care staff; food, water, and bowls for pets; medication and animal decontamination and parasite control; crates, cages, leashes, and animal transport carriers; animal cleaning table and supplies; shelter management; supervision of paid and volunteer staff; cleaning costs; shelter safety and security; and emergency medical, crisis intervention/psychological first aid, and veterinary services for sheltered survivors, household pets, and service and assistance animals.
- Posting information on the County website for pet emergency preparedness, information for creating evacuation plans, emergency checklists for pets, local organizations providing pet assistance, and local shelters when active that can accommodate persons with pets.[258]

The claimant estimates increased statewide costs totaling $2,680,417 in fiscal year 2024-2025, which includes $1,728,000 to update the emergency plans and $952,417 in sheltering costs.[259]

The claimant is not aware of, nor did it receive, any state, federal, or other non-local agency funds for this program, and all the increased costs were paid and will be paid from the Claimant's General Fund appropriations.[260]

The claimant filed rebuttal comments disagreeing with the arguments made by Finance that the requirements imposed by the test claim statute are triggered by local discretionary decisions. The claimant states the following:

- A Finance analysis of a 1990 bill amending Government Code section 8610 to require local government to provide disaster plans developed by local disaster councils states that the bill would create a reimbursable state mandate for only those jurisdictions with disaster councils in existence on the operative date of the bill, but no reimbursable mandate would exist for disaster councils established

[258] Exhibit A, Test Claim, pages 15-16, 22-23 (Declaration of the claimant's Chief of Emergency Services), 27 (Declaration of the claimant's Emergency Operations Coordinator).

[259] Exhibit A, Test Claim, pages 16-17, 28 (Declaration of the claimant's Emergency Operations Coordinator).

[260] Exhibit A, Test Claim, page 17.

after the operative date of the bill because local government would have the option not to establish disaster councils. The claimant contends that Finance is taking a different view now by arguing that reimbursement should be denied in full because cities and counties have the discretion to create local disaster councils.[261]

- While Finance argues that a disaster council is a discretionary decision, it is functionally required when considered from a practical perspective:
    - Nearly every local agency has an accredited disaster council with recent data demonstrating that all 58 counties and 481 cities have disaster councils. The majority of these were formed during 1946-1950 in the Civil Defense Era, following the amendment in 1945 of former Military and Veterans Code section 1571 (Stats. 1945 Chap. 1024, Sec. 27) (predecessor of current Government Code section 8610).[262]
    - In order to authorize public officers, employees, and volunteers to respond to an emergency and command citizens to assist in their disaster service worker duties, a county or city must have previously formed a disaster council. Absent this formation, a local agency will not be able to effectively marshal resources in response to an emergency.[263]
    - Pursuant to Government Code section 8505, each county is designated an operational area that serves as a link in the system of communications and coordination between the state's emergency operating centers and the operating centers of the political subdivisions comprising the operational area.[264]
    - The State Emergency Management System (SEMS), intended as a system to coordinate multiple jurisdictions and multiple agency operations, requires local participation to be eligible for funding for response-related costs. SEMS regulations also require the use of SEMS in emergency plans and procedures.[265]
    - Government Code sections 8593.3.2 and 8610 require counties to file a copy of their emergency plans with Cal OES and require Cal OES to annually review ten local emergency plans.[266]

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[261] Exhibit D, Claimant's Rebuttal Comments, pages 2-3, 14-18 (Declaration of Deputy County Counsel and copy of Finance Analysis on SB 2778 (1990)).

[262] Exhibit D, Claimant's Rebuttal Comments, page 4.

[263] Exhibit D, Claimant's Rebuttal Comments, page 4.

[264] Exhibit D, Claimant's Rebuttal Comments, pages 4-5.

[265] Exhibit D, Claimant's Rebuttal Comments, page 5.

[266] Exhibit D, Claimant's Rebuttal Comments, page 6.

- The Legislature has also added requirements to the emergency plans (i.e., emergency plans addressing wildfire smoke, integrating cultural competence into the emergency plans, incorporate procedures for persons with access or functional needs).[267]
- If a county fails to have a disaster council that develops or maintains an emergency plan, the county would not receive immunity protection under Government Code section 8657 and would not be eligible for SEMS funding for response-related costs. "These substantial penalties help further explain why all counties and cities are part of this system which includes requiring emergency plans to ensure local communities have access to the financial resources and protections to property recover from emergencies."[268]

Therefore, the claimant contends that the test claim statute imposes a state-mandated program.

B. Department of Finance

The Department of Finance contends that the test claim statute does not impose a state-mandated program and urges the Commission to deny the Test Claim. Finance states that the requirement to develop emergency plans and the downstream requirements imposed by the test claim statute to update the plans to accommodate pets stems from the local discretionary decision of a city or county to form disaster councils and adopt an emergency plan.

Finance further states it is not aware of any requirement for local government to operate an emergency shelter, except for the requirements that are downstream from the discretionary decision to create a disaster council. Finance further contends local government is not required to operate cooling and warming shelters.

Therefore, the costs to comply with the test claim statute are not mandated by the state and are not eligible for reimbursement.[269]

C. Interested Party and Interested Person Comments

1. County of Santa Clara

The County of Santa Clara filed comments to respond to the arguments raised by Finance and urges the Commission to find a state-mandated program and approve the Test Claim as follows:

- Counties are practically compelled to create and maintain local disaster councils. Counties and the residents they serve face certain and severe consequences if counties fail to engage in emergency planning and management. Finance's position essentially declares that a county has the discretion to "excise itself from

[267] Exhibit D, Claimant's Rebuttal Comments, pages 6-8.

[268] Exhibit D, Claimant's Rebuttal Comments, page 9.

[269] Exhibit B, Finance's Comments on the Test Claim, pages 1-2.

the State's emergency management system, rendering it an island cut off from regional and statewide emergency planning and preparedness, coordination, and mutual aid. As with the decision to not provide a stormwater drainage system, this "is no alternative at all."[270]

- All 58 counties and at least 481 cities have state-accredited disaster councils. Disaster councils are integral to the State emergency management system. Cal OES recognizes these as critical local government functions, emphasizing the importance of local government involvement in emergency planning and response. "In the State of California Emergency Plan, Cal OES declares that '[a]ll incidents are local'; and that, under the State's Standardized Emergency Management System, it is the responsibility of '[l]ocal governments [to] manage and coordinate the overall emergency response and recovery activities within their jurisdiction.' (Reed Decl., *supra*, at p. 2, ex. 2.)"[271]
- The State requires local government to submit a disaster council model emergency ordinance, a disaster service workers volunteer resolution, and a master mutual aid agreement to the state. "(See Cal. Code Regs. Tit. 19, § 2571; see also Reed Decl., *supra*, at p. 2, ex. 3.)"[272]

  > "Severe and certain consequences would follow if a county took the unprecedented step of withdrawing from the regional and statewide disaster management framework, including the loss of coordination and mutual aid in emergencies. (*Id*., at p. 3.) Indeed, the Legislature designed California's emergency management system around this very interdependence (see Gov. Code, § 8605), and Cal OES contemplates statewide participation by localities (see Reed Decl., *supra*, at p. 2 [citing pertinent provisions of the State Emergency Plan]). And again, surrounding localities and the State would likewise suffer from any individual county's withdrawal. (*Id*., at p. 3.)"[273]

- Each county-based disaster council has been accredited for at least 70 years, and the California Disaster and Civil Defense Master Mutual Aid Agreement was memorialized by Governor Earl Warren in 1950. "In other words, the DOF contemplates that a county can avoid the costs of AB 781 by taking a wrecking ball to local government infrastructure and regional and statewide expectations that have been in place for more than 70 years."[274]

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[270] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, page 2, citing *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 558.

[271] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, pages 3-4.

[272] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, page 4.

[273] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, page 4.

[274] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, page 4.

- The test claim statute requires a city or county to designate at least one cooling or warming center to accommodate persons with pets "to the extent practicable." However, practicality does not mean local government can decline to implement this "mandate." This language should be understood in the context of *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, which concerned a mandate requiring county firefighters to have protective equipment. There, the Court of Appeal "apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ—and hence, in that sense, could control or perhaps even void the extra costs to which it would be subjected." (*San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 888.) In other words, the discretion to determine what is practicable does not render a mandate discretionary for the purposes of Section 6.[275]

  In addition, "the definition of 'practicable' means 'capable of being put into practice or of being done or accomplished.' (Practicable, Merriam-Webster, https://www.merriam-webster.com/dictionary/practicable.) It does not mean that a decisionmaker can decline a mandate out of hand. If the Legislature wished to make this action discretionary, it would have used the ordinary term, 'may.'"[276]

Thus, County of Santa Clara contends that the requirements imposed by the test claim statute are mandated by the state.

2. California State Association of Counties (CSAC)

CSAC filed comments to respond to the arguments raised by Finance and urges the Commission to find a state-mandated program and approve the Test Claim as follows:

- The requirement to adopt an emergency plan does not stem from a local agency's decision to form a disaster council. CSAC states:

  > While it is discretionary that local emergency plans be developed and approved by a local disaster council, it is not discretionary for local governments to have and maintain emergency plans. The establishment of a local disaster council is one manner in which local governments take action to comply with the requirement to carry out the provisions of the State Emergency Plan. Lacking the establishment of a local disaster council does not exempt a local government from compliance with the State Emergency Act or the directives of Cal OES. The provisions of AB 781 do not specify that they pertain only to emergency plans as developed and approved by local disaster councils. Rather, AB 781 applies to any city or county emergency plan that serves to carry out the provisions of the State Emergency Plan.[277]

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[275] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, pages 5-6.

[276] Exhibit E, County of Santa Clara's Late Comments on the Test Claim, page 5.

[277] Exhibit C, CSAC's Late Comments on the Test Claim, page 2.

In addition, CSAC contends that counties, as political subdivisions of the state, are required to take action to carry out the provisions of the State Emergency Plan. The Government Code requires the Governor to coordinate and enforce the State Emergency Plan by coordinating the preparation of plans for mitigation of the effects of an emergency by the political subdivisions of the state. The Governor's Office of Emergency Services (Cal OES) is required to implement the State Emergency Plan and perform executive functions assigned by the Governor to support all phases of emergency management. This includes the promulgation of guidelines and assignments to state government and its political subdivisions to support the development of California's emergency management system. The State's emergency management system designates local governments—such as counties—as primarily responsible for emergency preparedness and response.[278] CSAC cites to the following code sections:

- "The State Emergency Plan shall be in effect in each political subdivision of the state, and the governing body of **each political subdivision shall take such action as may be necessary to carry out the provisions thereof**." (Government Code section 8568.)
- " "Political subdivision" includes any city, city and county, county, district, or other local governmental agency or public agency authorized by law." (Government Code section 8557(b).)
- " "Emergency plans" means those official and approved documents which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. These plans include such elements as continuity of government, the emergency services of governmental agencies, mobilization of resources, mutual aid, and public information." (Government Code section 8560(a).)
- "The Governor shall coordinate the State Emergency Plan and those programs necessary for the mitigation of the effects of an emergency in this state; and **he shall coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of this state**, such plans and programs to be integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government and of other states to the fullest possible extent." (Government Code section 8569.)
- "A county shall send a copy of its emergency plan to the Office of Emergency Services on or before March 1, 2022, and upon any update to the plan after that date." (Government Code Section 8593.3.2.)
- "On or before July 31, 2015, the Office of Emergency Services shall update the State Emergency Plan to include proposed best practices for

[278] Exhibit C, CSAC's Late Comments on the Test Claim, pages 1-2.

local governments and nongovernmental entities to use to mobilize and evacuate people with disabilities and others with access and functional needs during an emergency or natural disaster." (Government Code Section 8570.3.)[279]

- Local emergency planning, local maintenance of emergency plans, and local compliance with the State Emergency Plan are not discretionary. In addition to the requirements of the test claim statute, counties are required, upon the next update to their emergency plans, to:
    - Integrate access and functional needs into the emergency plan by addressing, at a minimum, how the access and functional needs population is being served by emergency sheltering. (Government Code section 8593.3.)
    - Integrate cultural competence into the emergency plan by addressing how culturally diverse communities are served by emergency evaluation and sheltering. (Government Code sections 8593.3.5(a).)

Thus, CSAC contends that the requirements imposed by the test claim statute are mandated by the state.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service…

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[280] Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] …"[281]

Reimbursement under article XIII B, section 6 is required when the following elements are met:

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[279] Exhibit C, CSAC's Late Comments on the Test Claim, pages 2-3, emphasis in original.

[280] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[281] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.[282]

2. The mandated activity constitutes a "program" that either:

   a. Carries out the governmental function of providing a service to the public; or

   b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.[283]

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.[284]

4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.[285]

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.[286] The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.[287] In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[288]

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[282] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

[283] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

[284] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal3d 830, 835.

[285] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

[286] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

[287] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

[288] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

A. The Test Claim Was Timely Filed, with a Period of Reimbursement Beginning January 1, 2024.

Government Code section 17551(c) provides that test claims "shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later."[289] Section 1183.1(c) of the Commission's regulations, in turn, defines "12 months" as 365 days.[290] The test claim statute became effective on January 1, 2024, and the test claim was filed on December 12, 2024, within 365 days following the effective date of the test claim statute.[291] The Test Claim was therefore timely filed.

Government Code section 17557(e) requires a test claim to be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year.[292] The December 12, 2024 filing date establishes reimbursement eligibility for the 2023-2024 fiscal year, but because the test claim statute became effective on January 1, 2024, the potential period of reimbursement begins on January 1, 2024.

B. The Test Claim Statute Imposes a Partial State-Mandated New Program or Higher Level of Service.

Article XIII B, section 6 requires reimbursement when "the Legislature or any state agency mandates a new program or higher level of service on any local government." A new program or higher level of service has been defined as those "that carry out the governmental function of providing services to the public, *or* laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state."[293] Just one of these conditions need be met.[294] The purpose of article XIII B, section 6 is to prevent the state from forcing extra programs on local government each year in a manner that negates their careful budgeting of increased expenditures counted against the local government's annual spending limit and thus, article XIII B, section 6 requires a showing that the test claim statute mandates new activities compared to prior law.[295]

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[289] Government Code section 17551(c).

[290] California Code of Regulations, title 2, section 1183.1(c).

[291] Exhibit A, Test Claim, page 1.

[292] Government Code section 17557(e)

[293] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537, citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56, emphasis in original.

[294] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

[295] California Constitution, articles XIII B, sections 1, 8(a) and (b); *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v.*

The Commission finds that the test claim statute imposes a partial state-mandated new program or higher level of service for the activities required by Government Code section 8593.10(c) and (d) only.

1. The Activities to Update an Emergency Plan to Designate Shelters Able to Accommodate Persons with Pets and to Designate at Least One Shelter to Accommodate Persons with Pets, as Provided in Government Code section 8593.10(b), Do Not Mandate a New Program or Higher Level of Service on Counties and Cities.

As explained below, the law and the plain language of the test claim statute treat counties and cities differently and, thus, the test claim statute is analyzed separately for these local agencies to determine if the statute mandates a new program or higher level of service.

a. Even if counties are compelled to have local emergency plans, the activities identified in Government Code section 8593(b)(1)(A), (C), (D), (E), and (b)(2) do not mandate a new program or higher level of service on counties.

Government Code section 8593(b)(1) requires counties, upon the next update of the county's emergency plan, to do the following:

A. Update its emergency plan to designate emergency shelters able to accommodate persons with pets.

B. [¶]

C. Whenever a county designates any number of emergency shelters, it shall designate at least one emergency shelter to accommodate persons with pets.

D. Whenever a number of emergency cooling centers are designated, at least one cooling center and one warming center "shall, to the extent practicable," be designated to accommodate persons with pets.

E. Whenever a number of emergency warming centers are designated, at least one heating center "shall, to the extent practicable," be designated to accommodate persons with pets.

Section 8593.10(b)(2) requires: "An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:

A. Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.

B. Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency."

Honig (1988) 44 Cal.3d 830, 835; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1595; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763.

The parties dispute whether these activities are mandated by the state. Finance asserts that the downstream requirements imposed by the test claim statute to update emergency plans to accommodate persons with pets stems from the local discretionary decision to form a disaster council and adopt an emergency plan. The claimant and the interested counties disagree and contend that the underlying decision to adopt an emergency plan is not voluntary but is compelled by state law.

The courts have explained that the determination of whether the test claim statute's requirements are mandated by the state depends on whether the claimant's participation in the underlying program is voluntary or legally compelled.[296] "[A]ctivities undertaken at the option or discretion of a local government entity … do not trigger a state mandate and hence do not require reimbursement of funds — even if the local entity is obliged to incur costs as a result of its discretionary decision to participate in a particular program or practice."[297]

Here, the activities listed in section 8593.10(b) are triggered by whether counties are compelled to have emergency plans and update those plans, and whether those plans are required to designate emergency shelters and warming and cooling centers.

There are two distinct theories for determining whether these underlying activities are compelled: legal compulsion and practical compulsion.[298]

Legal compulsion occurs when a statute or executive order uses mandatory language that requires or commands a local entity to participate in a program or service. "Stated differently, legal compulsion is present when the local entity has a mandatory, legally enforceable duty to obey. This standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power."[299]

"[P]ractical compulsion," [is] a theory of mandate that arises when a statutory scheme does not command a local entity to engage in conduct, but rather induces compliance through the imposition of severe consequences that leave the local entity no reasonable alternative but to comply.[300] A determination of practical compulsion in each case must depend on such factors as the nature and purpose of the program, whether its design

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[296] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[297] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 742; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

[298] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

[299] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

[300] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

suggests an intent to coerce, when local participation began, the penalties, if any, assessed for withdrawal or refusal to participate or comply, and any other legal or practical consequence of nonparticipation.[301]

For example, the court in *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, applied the practical compulsion theory to determine whether the County of San Diego and cities within the San Diego region, as operators of municipal separate storm sewer systems (MS4s), which are operated exclusively by government entities, were entitled to reimbursement for the requirements imposed in a National Pollutant Discharge Elimination System (NPDES) stormwater permit.[302] The State argued the permit did not require local government to operate an MS4 and, thus, compliance with the permit did not constitute a program within the meaning of article XIII B, section 6.[303] The court found that the decision to obtain a permit was not truly voluntary because as a matter of law, local government could not decide to opt-out of providing a stormwater drainage system; "In urbanized cities and counties such as permittees, deciding not to provide a stormwater drainage system is no alternative at all," and therefore the local government permittees were practically compelled to obtain a permit.[304]

However, practical compulsion has not been found when local government simply has to adjust for a loss or withdrawal of grant funding if it decides not to participate in the underlying program.[305]

In this case, the law does not require counties to adopt a local emergency plan. As explained in the Background and in the BSA audit, adopting an emergency plan is not legally compelled by state law. Rather, adopting an emergency plan is a condition of having a local disaster council and a factor considered for the receipt of funds under the California Disaster Assistance Act (CDAA) and the SEMS program (which incorporates mutual aid and the CDAA provisions) for emergencies and major disasters.[306] In 2006 and 2007, the Commission and the court found that compliance with SEMS was not legally compelled by state law because the requirements are only imposed as a

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[301] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816, citing to *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76.

[302] *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 555.

[303] *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 557.

[304] *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 558.

[305] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 754.

[306] Government Code section 8607(e), as last amended by Statutes 2022, chapter 28; California Code of Regulations, title 19, sections 2401, 2443(a), 2445.

condition of seeking disaster funding for personnel-related costs under the CDAA.[307] In addition, while federal law strongly encourages local governments to have emergency plans, and even provides grant funding to develop the plans, there is no federal requirement to have an emergency plan.[308] Thus, counties are not legally compelled by law to adopt an emergency plan.

The Commission and the court in SEMS also found that compliance with SEMS was not practically compelled since, like the case in *Kern High School Dist*., if a local agency decides not to participate in SEMS, or elects to discontinue participation in the program, the agency does not face "certain and severe penalties" such as "double taxation" or other "draconian measures." It simply loses its right to apply for state funding under the CDAA to assist the local agency in paying for its response-related *personnel* costs.[309] These findings were made even though counties have broad Constitutional police powers to protect the health, safety, and welfare of their residents; that all counties have disaster councils (which requires a local emergency plan), all counties signed the Master Mutual Aid Agreement in 1950 (which also requires a local emergency plan), and all counties were designated as operational areas in an emergency.[310]

Typically, the Commission would be required to comply with the court's prior ruling in this case under principles of res judicata and collateral estoppel, which bar the parties to the prior action from re-analyzing the same issue in a subsequent matter. However, "[n]either res judicata nor collateral estoppel were ever intended to operate so as to prevent a re-examination of the same question between the same parties where, in the interval between the first and second actions, the facts have materially changed or new facts have occurred which have altered the legal rights or relations of the litigants."[311]

Since the SEMS decision by the court, there has been a BSA audit and several statutes enacted addressing ***county*** emergency plans, as follows:

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[307] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506); Exhibit X (11), Commission on State Mandates, Adopted Minutes, March 29, 2006 Hearing, pages 4-7; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[308] United States Code, title 42, section 5196b.

[309] Exhibit X (12), Commission on State Mandates, Proposed Test Claim Statement of Decision, *Standardized Emergency Management System (SEMS)*, 03-RC-4506-01 (CSM-4506), pages 20-22; Exhibit X (17), Los Angeles County Superior Court Minute Order and Judgment Denying Petition for Writ of Mandate, SEMS.

[310] California Constitution, article XI, section 7 ("A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."); Government Code sections 8605, 8559, added by Statutes 1970, chapter 1454.

[311] *Union Pacific Railroad Co. v. Santa Fe Pacific Pipeline, Inc*. (2014) 231 Cal.App.4th 134, 179-180.

- The 2019 BSA audit findings include the statement that local jurisdictions are responsible for taking necessary and appropriate actions to protect people from threats and hazards, which would include natural disasters.[312] In addition, inadequate plans and insufficient planning are proven contributors to failure and deficiencies in a county's efforts to prepare for a natural disaster can impair its ability to respond when the disaster occurs.[313]
- BSA recommended the following:
    - The Legislature should require Cal OES to review all counties' emergency plans to determine if they are consistent with best practices and provide necessary technical assistance to counties.
    - Each county should revise its emergency plans by following best practices for planning to meet the access and functional needs of its residents, including involving people with those needs in its planning process and developing strategies for alerting, evacuating, and sheltering them.[314]
- In 2020, Government Code section 8593.9 required Cal OES to develop best practices for counties developing and updating county emergency plans. Cal OES is required to provide technical assistance and feedback regarding the sufficiency of the county's emergency plan with respect to Cal OES' best practices; procedures for alerting, evacuating, and sheltering individuals during an emergency; and any other necessary and appropriate element.[315]
- In 2021, Cal OES issued "Best Practices for County Emergency Plans."[316] Cal OES' best practices include complying with FEMA's Comprehensive Preparedness Guide when developing or updating emergency plans, reviewing and updating the plan on a regular basis, and having a care and shelter plan, as follows:
    - "It is a California best practice for each county to have a current emergency plan for the county's response to emergencies and disasters. This plan should be capable of execution during both emergency and non-emergency situations, such as pre-planned special events, with inter-agency coordination."[317]
    - "It is a California best practice for county emergency planners to reference leading national, federal, state, and industry standards when planning for

[312] Exhibit X (2), BSA Audit 2019, page 21.

[313] Exhibit X (2), BSA Audit 2019, page 8.

[314] Exhibit X (2), BSA Audit 2019, pages 10-11.

[315] Government Code section 8593.9(b), as added by Statutes 2020, chapter 257.

[316] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans.

[317] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 11.

disasters. . . . *Is the county's emergency plan consistent with FEMA's Comprehensive Preparedness Guide 101*?"[318]

- "It is a California best practice for the county's emergency plan to be reviewed and updated regularly."[319]
- "It is a California best practice for counties to have a Care and Shelter plan as an annex to the county's emergency plan, or as a separate standalone document. The plan should detail the plans and procedures to ensure consistency of approach towards shelter management. [Fn. omitted.] The existing shelter inventory should identify shelter sites that have backup generation capabilities for future de-energization events.""[320] Shelter plans should provide services for populations with disabilities; for example, by "allowing service animals inside shelters."[321]
- "It is a California best practice for counties to pre-identify facilities which meet minimum standards and can be used as evacuation shelters."[322]

- In 2021, Government Code section 8593.3.2 required counties to send a copy of their emergency plans to Cal OES on or before March 1, 2022, and upon any update to the plan after that date. Cal OES is required to review the county's emergency plan to determine if it is in compliance with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

  Counties are required by Government Code section 8593.3.2 to develop and revise their emergency plans to address the issues that Cal OES identifies in its review.[323]

- As last amended in 2022, Government Code section 8593.3 requires counties, upon the next update to their emergency plans, to "identify emergency evacuation procedures that ensure that local community resilience centers are prepared to serve communitywide assets during extreme heat events and other disasters, and designate available locations to provide respite to individuals

[318] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 15.

[319] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 24.

[320] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 67.

[321] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 68.

[322] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, page 71.

[323] Government Code section 8593.3.2(d).

during emergencies including during extreme heat and cold.[324] "Local community resilience center" is defined to mean "a hydration station, cooling center, clean air center, respite center, community evacuation and emergency response center, or similar facility established to mitigate the public health impacts of extreme heat and other emergency situations exacerbated by climate change, such as wildfire, power outages, or flooding, on local populations."[325]

The test claim statute, in section 8593.10(a), defines cooling and warming centers similar to the definition of "resilience center" in Government Code section 8593.3. Both are intended to mitigate the impacts of extreme temperatures.[326]

Thus, while counties originally may have had the discretion to adopt an emergency plan to protect the health and safety of its residents and seek funding under the CDAA, they argue they have no choice now and are compelled by these recent laws to send their emergency plans (current and updated plans) to Cal OES, Cal OES is required to review the plans to ensure the county's plan complies with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices, and counties are required to revise their plans in accordance with the Cal OES review. Thus, counties are required to have their emergency plans comply with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices.

In compliance with these standards and assuming counties are compelled to have an emergency plan that designates shelters and respite centers (warming and cooling centers), and to regularly update their plans, then the issue is whether the following downstream activities imposed by Government Code section 8593.10(b) to address the emergency accommodations for persons with pets mandates a new program or higher level of service on counties:

- Update its emergency plan to designate emergency shelters able to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(A).)
- At least one emergency shelter shall be designated to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(C).)
- Whenever a number of emergency cooling centers or warming centers are designated, at least one cooling center and one warming center "shall, to the

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[324] Government Code section 8593.3(a), as last amended by Statutes 2022, chapter 247.

[325] Government Code section 8593.3(f)(3), as last amended by Statutes 2022, chapter 247.

[326] Government Code section 8593.10(a)(1) and (4) defines these terms as follows:

"Cooling center" means "a facility established to mitigate the public health impacts of extreme heat."

"Warming center" means "a facility established to mitigate the public health impacts of extreme cold."

extent practicable," be designated to accommodate persons with pets. (Gov. Code, § 8593.10(b)(1)(D), (E).)

- An emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:
    - Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.
    - Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency. (Gov. Code, § 8593.10(b)(2).)

These activities are *not* reimbursable for the following reasons.

First, assuming counties are compelled to adopt an emergency plan, the requirements to update the county's emergency plan to designate emergency shelters able to accommodate persons with pets, to designate at least one emergency shelter that can accommodate persons with pets, and to ensure that the shelter is in compliance with safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan and applicable disaster assistance policies and procedures of the Federal Emergency Management Agency, in accordance with section 8593.10(b)(1)(A), (C), and (b)(2), are *not* new requirements. As indicated above, Government Code section 8593.3.2., added in 2021, already requires counties to send their emergency plans and updated plans to Cal OES to review for compliance with FEMA's Comprehensive Preparedness Guide 101 and Cal OES' best practices. It is a best practice to regularly update the emergency plans and to ensure that the plans conform to FEMA's Comprehensive Preparedness Guide 101.[327] And Cal OES's Fact Sheet states that its review covers whether the plan substantially conforms to or exceeds the recommendations in FEMA's Comprehensive Preparedness Guide 101.[328] Counties are required by section 8593.3.2. to revise their plans after Cal OES' review.[329] Thus, the plans are required to be updated and to conform to FEMA's Comprehensive Preparedness Guide.

FEMA's 2010 Comprehensive Preparedness Guide 101 (in effect when section 8593.3.2. was enacted) implements the 2006 PETS Act to require FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that these plans address the needs of individuals with household pets prior to,

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[327] Exhibit X (9), Cal OES Planning Best Practices for County Emergency Plans, pages 15, 24. In addition, Government Code section 8610(c), as last amended by Statutes 2020, chapter 254, requires Cal OES to review county emergency plans developed by a county disaster council to determine if the emergency plan substantially conforms to or exceeds the recommendations described in FEMA's Comprehensive Preparedness Guide 101, or other successor emergency operations planning guidance.

[328] Exhibit X (6), Cal OES Fact Sheet, Updates to County Emergency Plan Legislation, page 4.

[329] Government Code section 8593.3.2., added by Statutes 2021, chapter 744.

during, and following a major disaster or emergency.[330] The 2010 Guide states the following: "A key consideration is the integration of household pets and service animals into the planning process."[331] The 2010 Guide contains standards on "Incorporating Household Pets and Service Animals" in congregate household pet shelters (facilities that provide refuge to household pets of shelterees)[332] and a "Functional Annexes Content Guide," which contain "core functional support activities that should be incorporated" into the emergency plan, including sheltering facilities and plans to safely accommodate persons with pets.[333] FEMA Guidelines recommend that emergency plans address the following relevant provisions:

- Does the plan address how owners will be informed where congregate household pet shelters are located and which shelter to use?
- Does the plan provide for the conveyance of household pets or service animals whose owners are dependent on public transportation?
- Does the plan address how household pets that are provided with evacuation assistance are registered, documented, tracked, and reunited with their owners if they are separated during assisted evacuations?
- Does the plan establish criteria that can be used to expeditiously identify congregate household pet shelters and alternate facilities?
- Does the plan provide guidance about utility provisions, such as running water, adequate lighting, proper ventilation, electricity, and backup power, at congregate household pet shelters?
- Does the plan include mechanisms or processes to reduce/eliminate the risk of injury by an aggressive or frightened animal, the possibility of disease transmission, and other health risks for responders and volunteers staffing the congregate household pet shelter?
- Does the plan recommend a pre-disaster inspection and development of agreements for each congregate household pet facility?
- Does the plan identify equipment and supplies that may be needed to operate each congregate household pet shelter, as well as supplies that household pet owners may bring with them to the congregate shelter?
- Does the plan provide for the physical security of each congregate household pet facility, including perimeter controls and security personnel?

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[330] United States Code, title 42, section 5196b(g).

[331] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 13.

[332] Exhibit X (14), FEMA's 2007 Disaster Assistance Policy, page 2.

[333] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73, 102.

- Does the plan provide for acceptance of donated resources (e.g., food, bedding, containers)?
- Does the plan provide for the acquisition, storage, and security of food and water supplies?
- Does the plan provide for the diverse dietary needs of household pets?
- Does the plan provide for segregation or seizure of household pets showing signs of abuse?
- Does the plan provide for household pet registration?
- Does the plan provide for installation and reading of microchip technology for rapid and accurate identification of household pets?
- Does the plan identify the need for all animals to have a current rabies vaccination?
- Does the plan provide for the housing of a variety of household pet species (e.g., size of crate/cage, temperature control, appropriate lighting)?
- Does the plan provide for the consultation of a veterinarian or animal care expert with household pet sheltering experience regarding facility setup and maintenance?
- Does the plan provide for the setup and maintenance of household pet confinement areas (e.g., crates, cages, pens) for safety, cleanliness, and control of noise level?
- Does the plan recommend the setup of a household pet first aid area inside each shelter?
- Does the plan provide for the control of fleas, ticks, and other pests at each congregate household pet shelter?
- Does the plan provide criteria for designating and safely segregating aggressive animals?
- Does the plan provide for the segregation or quarantine of household pets to prevent the transmission of disease?
- Does the plan provide for household pet waste and dead animal disposal?[334]

Thus, the federal guideline in effect in 2010, which county emergency plans are required to comply with pursuant to Government Code section 8593.3.2., requires that emergency plans identify shelters that can accommodate persons with pets and to implement those plans and have at least one shelter that can accommodate persons with pets in accordance with safety procedures regarding the sheltering of pets

[334] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73; see also pages 107-115 (checklist in the Guide's Annex for "Mass Care, Emergency Assistance, Housing, and Human Services.")

referenced or established in the emergency plan and applicable disaster assistance policies and procedures of FEMA, as required by Government Code section 8593.10(b)(1)(A), (C), and (b)(2). These activities are not new.[335]

Second, the language in section 8593.10(b)(1)(D) and (E) that says whenever a county designates any number of emergency cooling centers or warming centers, it "shall, to the extent practicable" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on counties. Counties are required to designate warming and cooling centers for extreme temperature events pursuant to Government Code section 8593.3, and the Cal OES Extreme Temperature Response Plan recommends that facilities identified for cooling and warming centers identify the services provided to accommodate individuals with domestic pets.[336] However, counties only have to designate a warming/heating or cooling center able to accommodate pets "*to the extent practicable*." The courts have interpreted this language as recommending that the activity "should" be performed "to the extent practicable," but not requiring that the activity "shall" be performed as a legally enforceable duty.

In the similar case of *Coachella Valley Unified School District v. State of California*, school districts filed a petition for writ of mandate against the State of California challenging California's compliance with No Child Left Behind Act (NCLBA) in its testing of limited English proficient (LEP) students. The school districts claimed that because California tests LEP students in English for purposes of NCLBA accountability, instead of in the student's native language, the tests are not "valid and reliable" for these students as required by the federal legislation.[337] Federal law stated that LEP students "*shall* be assessed in a valid and reliable manner and provided reasonable accommodations on assessments..., including, *to extent practicable*, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency...."[338] The state chose to test in English and provide accommodations to LEP students, instead of assessing the LEP students in their native language.[339] The court disagreed with the school districts, denied the petition for writ of

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[335] Moreover, the claimant's May 2024 Animal Sheltering Annex lists the 2006 PETs Act and the 2006 California Animal Response Emergency System (CARES) as authorities and references for the Annex. The test claim statute is not identified in the Annex or its list of authorities and references. (Exhibit X (20) Sacramento County Animal Sheltering Annex, May 21, 2024, page 30.)

[336] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 76.

[337] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 101.

[338] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 103, emphasis added.

[339] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 103.

mandate, and found that the "test must be 'reliable and valid'; reasonable accommodations must be provided; and to the 'extent practicable' these accommodations *should include* 'assessments in the language and form most likely to yield accurate data.'"[340] The court held that native language testing was not mandatory, but should be provided to the extent practicable.[341] The court stated that "the explicit concern for 'practicability' and reasonableness, are all statutory signposts calling for broad discretion."[342]

Similarly, here, the language that says counties "shall, to the extent practicable" designate one cooling or warming center able to accommodate pets shows that accommodating persons with pets at cooling and warming centers should be done, but the decision is within the discretion of the county and would include local considerations of availability of facilities and any costs to open and staff these facilities, in light of the existing requirement to designate at least one emergency shelter to accommodate persons with pets as discussed above. Thus, designating, to the extent practicable, one cooling center and warming center that can accommodate persons with pets as stated in section 8593.10(b)(1)(D) and (E) is not mandated by the state.

Accordingly, the activities identified in Government Code section 8593.10(b) do not mandate a new program or higher level of service on counties.

b. <u>The activities in Government Code section 8593.10(b)(1)(B), (C), (D), (E), and (b)(2) do not mandate a new program or higher level of service for cities.</u>

Government Code section 8593.10(b)(1) requires cities, upon the next update of a city's emergency plan, to do the following:

[¶]

B. A city that has previously adopted an emergency plan designating emergency shelters shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.

C. Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.

D. Whenever a city or county designates any number of emergency cooling centers, it shall, "to the extent practicable", designate at least one cooling center that can accommodate persons with pets.

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[340] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114, emphasis added.

[341] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114-115.

[342] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 115.

E. Whenever a city or county designates any number of emergency warming centers, it shall, "to the extent practicable", designate at least one heating[343] center that can accommodate persons with pets.

Section 8593.10(b)(2) requires that an emergency shelter designated as able to accommodate persons with pets to be in compliance with both of the following:

A. Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.

B. Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency.

Unlike counties, cities have not been subject to any statutes requiring the adoption of an emergency plan, the updating of an emergency plan, or a requirement to designate shelters, and, thus, the activities required by section 8593.10(b)(1)(B) and (C), and (b)(2) are not legally compelled by state law. These activities are discretionary decisions of a city to carry out its police powers and to qualify for emergency response funding under the CDAA. This is consistent with the plain language in section 8593.10(b)(1)(B), which begins with "[a] city that has previously adopted an emergency plan designating emergency shelters . . ."

Moreover, there is no evidence in the record that cities are practically compelled to perform these underlying activities. Rather, cities have the authority to work with counties to use the countywide operational area for the coordination of emergency activities during a state of emergency or a local emergency and are not compelled to have a separate local emergency plan.[344] In fact, the claimant's 2024 Animal Sheltering Annex states that it is designed to assist the Sacramento Operational Area in preparing and sheltering animals and was designed with the assistance of the operational area stakeholders, including cities.[345]

Thus, the activities to update the emergency plan to designate shelters to accommodate persons with pets, to designate one shelter to accommodate persons with pets, and to comply with safety procedures and FEMA policies for those shelters are not mandated by the state for cities.

Even if a city argues it is practically compelled to have an emergency plan as a condition of having a local disaster council pursuant to Government Code section 8610, then the activities to update the emergency plan to designate shelters to accommodate persons with pets, to designate one shelter to accommodate persons with pets, and to comply with safety procedures and FEMA policies for those shelters, would not be new. As indicated in Government Code section 8610, the local disaster council is required to send a copy of its emergency plan to Cal OES and Cal OES is required to determine if

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[343] Statutes 2024, chapter 14 (AB 2232), amended this to change the word "heating" to "warming."

[344] Government Code section 8605, added by Statutes 1970, chapter 1454.

[345] Exhibit X (20), Sacramento County Animal Sheltering Annex, May 21, 2024, pages 6, 7.

the emergency plan substantially conforms to or exceeds the recommendations described in FEMA's Comprehensive Preparedness Guide 101, or other successor emergency operations planning guidance.[346] As indicated above, FEMA's guide recommends that:

- Emergency plans should be reviewed, revised, and updated.[347]
- The emergency plan should incorporate household pets in congregate household pet shelters and should designate sheltering facilities and plans to safely accommodate persons with pets.[348]

Thus, the activities required by section 8593.10(b)(1)(B) and (C), and (b)(2) do not mandate a new program or higher level of service on cities.

Moreover, the language in section 8593.10(b)(1)(D) and (E) that says whenever a city designates any number of emergency cooling centers or warming centers, it "shall, to the extent practicable" designate at least one cooling center or one warming/heating center that can accommodate persons with pets, does not impose a state-mandated activity on cities. Unlike counties, cities are not compelled by law to designate emergency cooling or warming centers. Moreover, "shall, to the extent practicable" does not impose a legally enforceable duty.[349] Thus, the downstream provision to designate, to the extent practicable, one of these shelters to accommodate persons with pets is not mandated by the state.[350]

Accordingly, activities in Government Code section 8593.10(b)(1)(B), (C), (D), (E), and (b)(2) do not mandate a new program or higher level of service for cities.

2. The Public Information Provision in Government Code Section 8593.10(c) Regarding Whether a Cooling or Warming Center Can Accommodate Pets Mandates a New Program or Higher Level of Service for Counties, But Not for Cities Since Cities Are Not Compelled to Have Cooling or Warming Centers.

Government Code section 8593.10(c) requires the following: "Whenever a city or county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets."

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[346] Government Code section 8610(c), as last amended by Statutes 2020, chapter 254.

[347] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 74.

[348] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, pages 68-73, 107-115.

[349] *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93, 114-115.

[350] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

The determination of whether the requirement in section 8593.10(c) is mandated by the state depends on whether the claimant's participation in the underlying program is voluntary or legally compelled.[351] For the reasons below, the Commission finds that section 8593.10(c) imposes a state-mandated new program or higher level of service for counties, but not for cities.

Counties are required by law to designate cooling and warming centers for extreme temperature events.[352] And Cal OES' Extreme Temperature Response Plan lists as "critical information" to provide to the public, "cooling and warming center locations, times of operation, and instructions.[353] Similarly, FEMA's guidelines include a standard for emergency plans to "provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters."[354] Counties are required to comply with FEMA guidelines and Cal OES' best practices when writing their emergency plans, and are required to follow those standards.[355] Thus, counties are required to provide notice to the public regarding the availability of a cooling center or warming center.

Although counties should but are not mandated by the state to make one of the cooling or warming centers available for persons with pets, the plain language of section 8593.10(c) states that a county "shall include" in the public information about the availability of a cooling or warming center "whether" or not the cooling or warming center can accommodate pets. Thus, this requirement to include information on whether or not a cooling or warming center can accommodate persons with pets is not dependent on whether a county does, in fact, offer that service; the information is required to be provided in either case and "whenever" the county provides public information about the availability of a cooling or warming center. Thus, all notices of availability of cooling and warming centers issued by a county are required to state whether or not the facility can accommodate pets.

The Commission finds that this downstream requirement is new for counties, as that information was not previously required to be provided with respect to cooling and warming centers. In addition, the requirement is mandated by the state for counties. Government Code section 14 states that "shall" is mandatory and the plain language states that counties "shall" include whether the cooling or warming center can accommodate pets. The requirement also imposes a new program or higher level of service since the requirement is unique to government and provides a governmental service to the public based on the Legislature's intent on enacting the test claim statute

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[351] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[352] Government Code sections 8593.3, 8593.25.

[353] Exhibit X (4), Cal OES Extreme Temperature Response Plan, page 35.

[354] Exhibit X (13), FEMA's 2010 Comprehensive Preparedness Guide 101, page 72.

[355] Government Code section 8593.3.2.

to provide increased guidance and public awareness in extreme weather events.[356] Thus, section 8593.10(c) mandates a new program or higher level of service on counties to include information about whether a cooling or warming center can accommodate pets whenever a county provides public information on the availability of a cooling or warming center.

However, the downstream requirement is not mandated by the state for cities. Unlike counties, cities are not required by law to designate emergency cooling or warming centers and thus, the downstream provisions to provide public information regarding the availability of a cooling center or warming center, and to include in that information whether the cooling or warming center can accommodate persons with pets, are not compelled or mandated by the state for cities.[357]

3. Government Code Section 8593.10(d), Which Requires Cities and Counties to Post Information on their Internet Websites, Mandates a New Program or Higher Level of Service on Cities and Counties.

Government Code section 8593.10(d) requires that "[a] city or county shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

> (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.
>
> (2) Local organizations that may provide emergency pet assistance.
>
> (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets."[358]

The claimant states that this "requires staff to obtain the appropriate content and do an initial page on the website but also to maintain the information to ensure proper locations during emergency events."[359]

This requirement is new for both counties and cities and is not triggered by any prior decision or requirement imposed on local government. Based on the plain language "shall," the requirement is mandated by the state.[360] And the requirement is unique to government and provides a governmental service to the public since the purpose is to carry out the Legislature's intent to provide guidance in increasing public preparedness

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[356] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[357] *Department of Finance v. Commission on State Mandates* (*Kern*) (2003) 30 Cal.4th 727, 731.

[358] Government Code section 8593.10(d).

[359] Exhibit A, Test Claim, page 24 (Declaration of claimant's Chief of Emergency Services).

[360] Government Code section 14, which states that "shall" is mandatory.

for disasters and extreme weather events and, thus, imposes a new program or higher level of service on counties and cities.[361]

C. The New State-Mandated Activities Result in Costs Mandated by the State.

Finally, Government Code section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) specifically requires that no claim (including a test claim and a reimbursement claim) or payment shall be made unless the claim exceeds $1,000. A finding of costs mandated by the state also means that no exception in Government Code section 17556 applies.

Here, the claimant has filed a declaration signed under penalty of perjury identifying actual increased costs exceeding $1,000 to comply with the test claim statute for fiscal year 2023-2024.[362] The claimant's declaration also reports actual costs over $1,000 for staff time and supplies for cooling centers that accommodated pets, which would include costs to provide public information about whether the cooling center was able to accommodate pets in accordance with section 8593.10(c).[363] And the claimant's declaration estimates costs for fiscal year 2024-2025 of $315 to comply with the notice requirements in section 8593.10(d).[364] Thus, there is sufficient evidence in the record that the claimant will incur increased costs mandated by the state to comply with the new state-mandated activities.

Furthermore, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to deny this Test Claim. Although there may be state or federal grant funding that could be applied to the public information and notice costs, there is no evidence of additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate in accordance with Government Code section 17556(e).

Accordingly, the Commission finds the following new state-mandated activities required by Government Code section 8593.10(c) and (d) impose costs mandated by the state:

- Whenever a county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets. (Gov. Code, § 8593.10(c)).

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[361] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; Statutes 2023, chapter 344, section 1.

[362] Exhibit A, Test Claim, pages 26-27 (Declaration of the claimant's Emergency Operations Coordinator).

[363] Exhibit A, Test Claim, page 27 (Declaration of the claimant's Emergency Operations Coordinator).

[364] Exhibit A, Test Claim, page 27 (Declaration of the claimant's Emergency Operations Coordinator).

- Cities and counties shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

  (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets. (Gov. Code, § 8593.10(d).)

V. Conclusion

Based on the foregoing analysis, the Commission partially approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution beginning January 1, 2024, for the following activities only:

- Whenever a county provides public information regarding the availability of a cooling center or warming center, that information shall include whether the cooling or warming center can accommodate pets. (Gov. Code, § 8593.10(c)).

  Government Code section 8593.10(c) does not impose a reimbursable state-mandated program on cities.

- Cities and counties shall make available to the public by posting on its internet website information for pet emergency preparedness, including, but not limited to:

  (1) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by the Department of Food and Agriculture and the Federal Emergency Management Agency.

  (2) Local organizations that may provide emergency pet assistance.

  (3) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets. (Gov. Code, § 8593.10(d).)

All other claims for reimbursement asserted are denied.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 4, 2026, I served the:

- **Current Mailing List dated March 3, 2026**
- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued March 4, 2026**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 4, 2026 at Sacramento, California.

Jill Magee

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/3/26

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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Department of Finance
Chad Rinde
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Auditor-Controller
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Tax Collection & Licensing
Treasury

Commission on State Mandates
Filed Date
03/23/2026

March 23, 2026

Commission on State Mandates
Attn: Juliana F. Gmur, Executive Director
980 Ninth Street, Suite 300
Sacramento, CA 95814

Exhibit G

Re: County of Sacramento Written Comments on Draft Proposed Decision: Emergency Shelters Persons with Pets (24-TC-06)

Dear Director Gmur and Commission Members:

Sacramento County respectfully submits its written comments to the Commission's draft proposed decision dated March 4, 2026, regarding Test Claim 24-TC-06 on Emergency Shelters: Persons with Pets.

Our comments below are separated into three distinct sections which broadly correspond with the differing proposed treatment in the Draft Proposed Decision.

Emergency Plans

The Commission determined on Page 3 of the Proposed Decision *"Although counties may be compelled to have an emergency plan and those plans are required to designate emergency shelters, the requirement to designate shelters to accommodate persons with pets is not a new requirement for counties."*

The foundation for this decision also on Page 3 was that *"Government Code section 8593.3.2. requires county emergency plans to be updated and to conform to FEMA's Comprehensive Preparedness Guide 101. FEMA's 2010 Comprehensive Preparedness Guide 101 implements the 2006 federal PETS Act, which required FEMA, when approving standards for state and local emergency preparedness operational plans, to ensure that the plans address the needs of individuals with household pets prior to, during, and following a major disaster or emergency, and contains the same activities for emergency shelters to accommodate persons with pets."*

The County disagrees and believes further distinguishment of the legal requirements is important. Government Code section 8593.3.2 does require each county to submit a copy of its emergency plan to CalOES and requires that it incorporates best practices (captured in the 2010 Comprehensive Preparedness Guide).

However, what is lost is that those emergency plans were intended to address State and Federally declared disasters and sheltering requirements for persons and pets associated with that category of event. What it does not do is address warming and cooling events specifically for persons with pets, which are not addressed in the FEMA 2010 Comprehensive Preparedness Guide.

Thus, the County of Sacramento still contends that counties are practically compelled to have emergency plans and AB781 through Government Code section 8593.10(b)(1)(a) imposes new requirements to update emergency plans which are not existing activities as they incorporate additional types of events (i.e. heating and cooling) and new requirements for those type of events (populations of persons with pets) which were not previously required.

Sheltering Costs

The Commission asserts that the Government Code section 8593.10(b)(1)(D), and (E) provisions concerning the designation, opening, and operation of cooling and warming shelters are not mandatory because those portions of 8593.10 impose requirements *"to the extent practicable"*.

However, the County notes there is a distinction between the legal support relied on in the draft proposed decision and use of the term "to the extent practicable" in Government Code section 8593.10(b)(1)(D)-(E). The proposed decision cites to *Coachella Valley Unified School District v. State of California* (2009) 176 Cal.App.4th 93 for the conclusion that use of "to the extent practicable" in 8593.10(b)(1)(D)-(E) means counties and cities which designate any number of emergency cooling or warming centers are not mandated to designate at least one cooling or warming center that can accommodate pets. A review of that case reveals it contains a fundamental difference from the statutory language under review in this matter.

> The *Coachella Valley Unified School District* case involved an effort by California school districts receiving funds under the Federal No Child Left Behind Act of 2001(NCLBA) to require the State to abide by the NCLBA's requisites for assessing limited English proficient (LEP) students. One of the NCLBA's provisions requires states to assess such students in a valid and reasonable manner with reasonable accommodations, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on the students' knowledge and abilities in academic content areas. The court found the NCLBA nowhere obligates a state to test LEP students in their primary language. Instead, it found the law gave broad discretion to the states in such regard because "whether the particular form and language and form of an assessment is likely to yield accurate results depends on the particular student population being tested and the mode of instruction they are receiving, among other factors." The court thus determined "the NCLBA invites each state to make its own judgment call in fashioning a testing program for its LEP students…" (*Coachella Valley Unified School District* 174 Cal.App.4th 93, 115).
>
> The *Coachella Valley Unified School District* case therefore establishes that under the NCLBA, "to the extent practicable" involves states having discretion to decide whether they should test LEP students in their primary language to achieve the NCLBA's legal objectives, not whether states are able to do so. In contrast, under Government code sections 8953.10(b)(C)-(D), counties and cities which designate emergency cooling or warming centers are mandated to designate at least one cooling or warming center that can accommodate people with pets if they are able to do so. Unlike states under the NCLBA, counties and cities which are able to designate a cooling or warming center that can accommodate persons with pets do not have discretion to decide whether they should do so.

Beyond, the arguments above there is not a similar off-ramp for Emergency Shelters in Government Code section 8593.10(b)(1)(C) as recognized in the proposed decision. Included in the County's test claim in addition to the designation of a shelter, was the costs to operate a shelter to accommodate persons with pets under that designation.

Thus, we contend that in certain types of emergencies that are not a State or Federally declared emergency wherein the County could pursue reimbursement, that this still imposes a new state-

reimbursable mandate specific to sheltering costs of persons with pets. We would encourage the Commission to look specifically at that element and reconsider if this may be a reimbursable mandate.

Communication Costs

The Proposed Decision accurately captures there are heighted communication requirements placed on counties to communicate resources during extreme weather temperature events and providing information specific to persons with pets. We agree that this is a higher level of service and believe that the proposed decision accurately captures this additional requirement imposed on local agencies under AB781.

Conclusion:

We appreciate the detailed efforts put in by Commission staff analyzing our claim and complex legal regulations regarding Emergency Services in arriving at the Proposed Test decision. As described above, while we appreciate the conclusions regarding the heightened communication requirements imposed by AB781, we hope that the Commission will examine more deeply its proposed decision around Emergency Plans and Sheltering Costs for Emergency events in light of these comments and determine additional areas of AB781 are State reimbursable mandates.

Thank you for your time and consideration of the County's written comments in response to the Draft Proposed Decision. Should you have any questions or require further clarification, please contact me at 916-874-7450 or rindec@saccounty.gov and I would be pleased to provide additional information.

I hereby certify by my signature below that the statements are made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on March 23, 2026, at Sacramento, California, by:



Chad Rinde
Director of Finance
Sacramento County Department of Finance

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 24, 2026, I served the:

- **Current Mailing List dated March 3, 2026**
- **Claimant's Comments on the Draft Proposed Decision filed March 23, 2026**

  Emergency Shelters: Persons with Pets, 24-TC-06
  Statutes 2023, Chapter 344, Section 2 (AB 781); Government Code Section 8593.10(b), (c), and (d), effective January 1, 2024
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 24, 2026 at Sacramento, California.



David Chavez
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/3/26

Claim Number: 24-TC-06

Matter: Emergency Shelters: Persons with Pets

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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BILL ANALYSIS

Exhibit H

CONCURRENCE IN SENATE AMENDMENTS
AB 450 (Yee)
As Amended August 22, 2006
Majority vote

ASSEMBLY:	76-1	(January 31, 2006)	SENATE:	35-1	(August 23, 2006)

Original Committee Reference: JUD.

SUMMARY : Requires the Governor's Office of Emergency Services (OES) to approve, adopt, and incorporate the "California Animal Response Emergency System" (CARES) program into the standardized emergency management system (SEMS). Requires

The Senate Amendments make the provisions of the bill mandatory, thereby requiring OES to approve, adopt, and incorporate CARES into SEMS. Requires that no later than January 31, 2007, the California Department of Food and Agriculture (CDFA) shall enter into a memorandum of understanding with the Office of Emergency Services and other interested parties to incorporate the CARES program into their emergency planning.

AS PASSED BY THE ASSEMBLY , the bill was permissive and provided that SEMS may take into account the needs of individuals with household pets, service animals, livestock and equines following a major disaster or emergency.

FISCAL EFFECT : According to the Senate Appropriations Committee analysis, it will cost $180 thousand to implement the provisions of the bill with unknown, potentially major costs following a disaster.

COMMENTS : Purpose of this bill: According to the author's office, one of the lessons of Hurricane Katrina is that there must be a plan in place for the evacuation of companion animals and livestock. In California, with the ever-present threat of fire, flood and earthquake, it is incumbent upon state policymakers to ensure that state and local governments have taken the necessary steps to protect animals, as well as their owners, in the event of disaster.

Further, the author states that a common hindrance to efficient

evacuations is the reluctance of potential evacuees to abandon their animals. This reluctance slows rescue efforts and puts both rescuers and disaster victims at further risk. According to a 2001 study of Yuba County following the 1997 storms of El Ni?o, 80% of the people who re-entered the evacuated area did so to rescue their pets. Emergency management cannot disregard the consequences, for rescuers and victims alike, of ignoring animals in disaster planning.

Background: OES is responsible for assuring the state's readiness to respond to and recover from natural or manmade disasters, and for assisting local governments in their emergency preparedness, response and recovery efforts. OES maintains SEP, which outlines the organizational structure for state management of the response to natural and manmade disasters.

Following the 1991 East Bay Hills fire, Senator Nick Petris introduced SB 1841, Chapter 1069, Statutes of 1992, that directs OES, in coordination with other state agencies and interested local emergency management agencies, to establish by regulation SEMS. SEMS is the system used for coordinating state and local emergency response in California. SEMS provides a multiple level emergency response organization that facilitates the flow of emergency information and resources. SEMS consists of Incident Command System, mutual aid, the operational area concept and multi-interagency coordination. SEMS is designed to be flexible and adaptable to the varied emergencies that can occur in California, and to meet the emergency management needs of all responders.

In 1997, following the storms and floods of El Ni?o, Governor Pete Wilson signed Executive Order W-156-97 that, among other things, directed OES to cooperate with local animal control

officers and the CDFA in reviewing livestock and pet evacuation procedures and develop animal safety and relocation procedures to be used in future emergencies. The result of that coordinated effort was the writing of a comprehensive state plan for responding to animal issues during disasters; the CARES plan.

CARES lays out a response structure between local, state, and federal governments in relation to evacuating animals in emergency situations. CARES allows for the coordination of resources and decisions once an incident escalates to a

state-level emergency. As a county or local area exhausts its resources, it will contact OES to request assistance for additional resources and to make decisions on how best to respond.

CARES is not intended to supersede local government plans but to assist them as they exhaust their resources. It is designed to enhance coordination efforts already present in county and city plans. CARES identifies state-level resources and the means by which these resources can be made available to help local governments with animal issues during a disaster. CARES also outlines disaster preparation, response, recovery, and mitigation activities.

CDFA, the lead agency to assist OES in addressing animal issues during disasters, has created guidelines for dealing with pets and livestock in a disaster. A number of the large counties, such as San Francisco, Los Angeles, and Santa Barbara, have already established local plans, but a number of other counties have not. At this time, CARES has not been formally incorporated into SEMS, nor has any specific state agency been charged with ensuring that the plan and model guidelines are available to local governments by any specific deadline for inclusion in local disaster response plans.

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California Is Not Adequately Prepared to Protect Its Most Vulnerable Residents From Natural Disasters

December 2019

EMERGENCY PLANNING

REPORT 2019-103



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December 5, 2019
2019-103

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of three counties—Butte, Sonoma, and Ventura—to assess how well prepared each county is to protect vulnerable populations before, during, and after a natural disaster. During a natural disaster, some people have needs—known as *access and functional needs*—that cannot be met by traditional emergency response and recovery methods. These access and functional needs come from a variety of circumstances, such as disabilities, limited English proficiency, transportation disadvantages, and older age. Although everyone is vulnerable during a natural disaster, people with access and functional needs are even more vulnerable. This report concludes that, despite guidance from the Federal Emergency Management Agency (FEMA) and the California Governor's Office of Emergency Services (Cal OES), these three counties have not adequately implemented best practices for protecting vulnerable populations, which may place their residents at greater risk of harm during future natural disasters.

Before some of California's most recent and significant wildfires, none of the three counties we reviewed had complete, up-to-date plans for alerting and warning their residents about danger from natural disasters, conducting evacuations, or sheltering evacuees. Further, none of the counties had conducted assessments of their respective populations to determine what access and functional needs existed in their communities, prearranged for evacuation assistance to meet those needs, or fully prepared to send critical warning messages. Inadequate preparation likely hindered the counties' responses to the 2018 Camp Fire, the 2017 Sonoma Complex fires, and the 2017 Thomas Fire. For example, despite the critical nature of evacuation messages, none of the counties sent evacuation notices in languages other than English during these events. In the time since these wildfires, each county has taken some steps to follow best practices for meeting access and functional needs, but none have fully implemented these practices.

Despite the importance of planning for people with access and functional needs, Cal OES has not provided adequate support to local jurisdictions in developing emergency plans to meet those needs. It has neither complied with key state laws requiring it to provide guidance to local jurisdictions, nor has it published lessons learned from natural disasters so that local jurisdictions can learn from others' successes and challenges in responding to emergencies. These failures leave local jurisdictions without key resources that could help them develop plans to protect people with access and functional needs during future natural disasters.

It is important that readers understand the scope of this report. We did not evaluate or reach conclusions about fault or liability, nor did we review specific claims or assess whether the State or any of the three counties we visited breached any legal duty of care. We focused our review on the implementation of best practices prior to emergency events. By implementing best practices in their current planning efforts, counties can be better prepared for future disasters, and in particular, the specific concerns of those with access and functional needs.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
California State Auditor

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Summary

Results in Brief

In recent years, California has experienced an increase in the frequency and destructive nature of wildfires. Experts predict that the recent trend of increased frequency and severity of wildfires will continue, requiring the State to be prepared to protect its residents more often from more dangerous natural disasters than it has in the past. The State's emergency management system designates local governments—such as counties—as primarily responsible for emergency preparedness and response. In that role, the local governments should develop emergency response plans (emergency plans) that adequately prepare them to protect all residents, including the most vulnerable. We reviewed the extent to which three counties'—Butte County (Butte), Sonoma County (Sonoma), and Ventura County (Ventura)—emergency planning incorporated best practices and the effect that not following those best practices had on their responses to recent wildfires. We determined that the counties have not adequately followed key practices for emergency planning, including having emergency plans for alerting, evacuating, and sheltering residents and assessing the needs of their communities in advance of disaster events. As a result, the counties are less prepared for future natural disasters, which may place the residents for whom they are responsible at greater risk of harm.

In particular, the three counties have not adequately prepared to protect people with needs that cannot be met by traditional emergency response and recovery methods. Within the emergency management community, those needs are referred to as *access and functional needs*. Under state law, people with access and functional needs include, among others, older adults and people with disabilities, chronic conditions, temporary injuries, and limited English proficiency. Although everyone is vulnerable during a natural disaster, people with access and functional needs are even more vulnerable. As a result, these individuals have historically been disproportionately affected by natural disasters. The United Nations reports that people with certain access and functional needs are more likely to die from these events. During past events, emergency response agencies have struggled to assist them.

However, none of the counties we reviewed have implemented key best practices from the Federal Emergency Management Agency (FEMA) and other organizations to ensure that their emergency plans fully address the access and functional needs of the people in their communities. These practices include involving representatives of people with such needs in the emergency planning processes. These representatives are best positioned to provide insight about how counties can effectively meet access and

Audit Highlights . . .

Our audit of three counties assessing their emergency planning to protect vulnerable populations before, during, and after natural disasters revealed the following:

» *The three counties did not have complete, updated plans for alerting, evacuating, and sheltering their residents before recent wildfires—the 2018 Camp Fire, 2017 Sonoma Complex Fires, and 2017 Thomas Fire.*

» *Despite guidance from FEMA and other organizations, none of the counties used key best practices for emergency planning to protect their most vulnerable residents during natural disasters.*

- *None of the counties had completed an assessment of their populations to determine the needs that their communities will have during an emergency.*
- *In developing emergency plans, the counties did not involve community representatives of people with a variety of access and functional needs to provide insight.*
- *The counties did not assess the resources needed to assist people with access and functional needs during a natural disaster, such as accessible transportation and shelter resources.*

» *Cal OES has failed to provide important resources to help local jurisdictions in planning, even though in some cases it is required to do so by state law.*

- *It has not provided guidance related to strategies for identifying people with access and functional needs and for evacuating people with disabilities.*

continued on next page . . .

- *It has not published after-action reports that include lessons learned from natural disasters so local jurisdictions can learn from others' successes and mistakes.*
- *It has not followed best practices for involving people with access and functional needs when developing emergency plans to meet those needs.*

functional needs during a natural disaster. Despite this valuable perspective, none of the three counties adequately engaged with representatives of individuals with a variety of access and functional needs in their community when developing their emergency plans.

We recognize that no amount of planning or preparation will guarantee success during a natural disaster. This is particularly true when the natural disaster is historic in size and scope, as has been the case in each of these three counties in the past two years. Each county we reviewed recently experienced wildfires that were among the most destructive or deadly in the history of California—the 2018 Camp Fire in Butte, the 2017 Sonoma Complex Fires in Sonoma, and the 2017 Thomas Fire in Ventura. Moreover, determining if any additional lives would have been saved during these events if the counties had planned differently or more fully implemented best practices is impossible, and we reach no conclusion to that effect. In fact, FEMA acknowledges that using a prescribed planning process cannot guarantee success. However, it also notes that inadequate plans and insufficient planning are proven contributors to failure. Therefore, deficiencies in a county's efforts to prepare for a natural disaster can impair its ability to respond when the disaster occurs.

For example, each county lacked a completed, updated plan for issuing evacuation warnings and each had deficiencies in the way it issued warnings to the public during these historic disasters. During those wildfires, none of the counties issued warnings directing people to evacuate in languages other than English. As a result, some people likely did not receive potentially life-saving emergency information in a language that they could understand. Moreover, despite having access to technology that could reach all cell phones in their evacuation zones, Butte and Sonoma did not send alerts using that technology. Instead, both counties sent messages through notification systems that reach landlines and reach a person's cell phone only if that person has preregistered to receive emergency alerts from the county.

Further, we identified similar deficiencies in the three counties' preparedness for evacuating and sheltering people with access and functional needs. FEMA's best practices state that counties should assess what resources they will need to assist such people during evacuations and sheltering. These resources include accessible transportation options for evacuation assistance and accessible cots, showers, and toilets for emergency shelters. According to best practices, counties should ensure that those resources will be quickly available during natural disasters by prearranging agreements with vendors or other organizations, yet none of the counties we visited have established a full set of agreements for those resources. Butte has established several agreements

for shelter resources, but it lacks any prearranged agreements for transportation to assist evacuation. Similarly, Sonoma and Ventura have no prearranged agreements for transportation and lack key agreements for shelter resources.

Some of the deficiencies that we found at the counties—such as not having evacuation plans or not issuing effective alert and warning messages—affect all their residents, not just those with access and functional needs. As natural disasters grow in severity and frequency, the potential effects of being underprepared also grow. Therefore, it is critical that the State also do more to ensure that local jurisdictions are as prepared as possible. Unlike in California, state laws in Florida and Texas require their state emergency management division to establish standards for and periodically review local jurisdictions' emergency management plans. A similar requirement in California could direct the California Governor's Office of Emergency Services (Cal OES) to review and provide feedback to local emergency management agencies on the extent to which their plans effectively incorporate emergency management best practices, especially related to protecting and assisting people with access and functional needs.

Cal OES is the State's lead agency for emergency management, and its mission is to protect lives and property, build the State's emergency response capabilities, and support communities. Although Cal OES has issued some guidance and tools for assisting local jurisdictions in developing emergency plans to meet access and functional needs, it has not done enough to fulfill its mission with respect to protecting these vulnerable populations. Specifically, Cal OES has not taken key steps to provide support to local jurisdictions.

First, Cal OES has failed to provide important resources to help local jurisdictions in planning, even when state law has required it to do so. For example, Cal OES has not complied with state law requiring it to provide guidance to local jurisdictions related to strategies for identifying people with access and functional needs and for evacuating people with disabilities. As a result, local jurisdictions—like those that we reviewed—may struggle to adequately plan for how to best assist those people. Until Cal OES complies with the requirements in state law, it will not have fulfilled its purpose of providing support and technical assistance to local jurisdictions as they plan for disasters.

Additionally, Cal OES has not followed best practices for involving people with access and functional needs in developing its own plans and guidance. Instead of including representatives of such persons in developing its guidance documents, Cal OES relies on a single individual—the chief of its Office of Access and Functional Needs—

to inform its guidance. As a result, the guidance it recently released on alerting and warning did not feature strategies or specific guidance for how to alert people with hearing impairments. Local jurisdictions rely on Cal OES's plans and guidance to determine how to conduct their own planning. If Cal OES's plans and guidance do not fully address access and functional needs, local jurisdictions' plans may not either.

Finally, Cal OES has not disseminated after-action reports that include lessons learned from natural disasters to help local jurisdictions learn from the successes and mistakes of others. Implicit in Cal OES's mission to protect lives, build capabilities, and support communities is a responsibility to identify and take proactive steps to correct problems in emergency management that may jeopardize the lives of residents, including those with access and functional needs. Despite a state law requiring Cal OES to issue after-action reports within 120 days of the end of a disaster, the most recent disaster for which it has completed an after-action report occurred in February 2015, and it did not complete that report until May 2019—more than four years after the disaster occurred. As a result, it has missed an opportunity to assist local jurisdictions in adapting their plans based on the lessons learned by other jurisdictions.

Summary of Recommendations

Legislature

The Legislature should require Cal OES to review all counties' emergency plans to determine if they are consistent with best practices and provide necessary technical assistance to counties.

The Legislature should require Cal OES to involve organizations representing individuals with a variety of access and functional needs in the development of the state emergency plan and guidance for local jurisdictions and to annually disseminate guidance based on lessons learned from natural disasters.

Counties

To ensure that they are adequately prepared to protect vulnerable populations during a natural disaster, each county should revise its emergency plans by following best practices for planning to meet the access and functional needs of its residents, including involving people with those needs in its planning process and developing strategies for alerting, evacuating, and sheltering them.

To ensure that its future emergency planning efforts more fully address access and functional needs, each county should adopt county ordinances that require it to adhere to the best practices and guidance issued by FEMA, Cal OES, and other authorities when conducting such planning.

Cal OES

Cal OES should, by no later than June 2020, issue the guidance related to access and functional needs to local jurisdictions that state law requires it to produce.

Agency Comments

Each of the counties expressed concerns about our conclusions that they are not adequately prepared to protect vulnerable populations and that inadequate preparation affected their response to recent wildfires. Neither Butte nor Ventura consistently indicated whether they plan to implement our recommendations. Sonoma generally agreed with our recommendations. Cal OES strongly disagreed with our conclusion that it has not adequately supported local jurisdictions in planning to meet access and functional needs and indicated that it would not fully implement our recommendation to provide all of the guidance that state law requires it to provide to local jurisdictions.

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Introduction

Background

California is susceptible to a variety of natural disasters, the most prevalent and destructive of which are earthquakes, floods, and wildfires. In recent years, California has experienced an increase in the frequency and severity of wildfires, and experts project that these events will continue to occur more frequently. Consequently, the State will likely need to protect its residents more often and from more dangerous natural disasters in the future than it has in the past.

California's emergency response system, which is known as the Standardized Emergency Management System (SEMS), mirrors the federal government's National Incident Management System (NIMS). The Federal Emergency Management Agency (FEMA) manages the federal system, which is the nation's comprehensive approach to emergency management and applies to all levels of government, including cities, counties, and states. Under the State's emergency management system, local governments—which include cities, counties, and special districts—are primarily responsible for emergency response. As Figure 1 demonstrates, when a natural disaster exceeds a local government's capacity to manage it, the local government may request assistance from the next level up in the emergency management system.

Figure 1
As Resource Needs Increase, Higher Levels of Government Become Involved in Emergency Management



Source: State law, state emergency management system guidelines, and the state emergency plan.

The California Governor's Office of Emergency Services (Cal OES) is responsible for the State's emergency and disaster response services, including activities necessary to respond to and recover from natural disasters and other emergencies. One of Cal OES's critical duties is to develop and maintain the State's emergency plan (state plan). The state plan describes how the State will perform a variety of emergency support functions (emergency functions) and identifies the emergency functions for which specific state agencies, including Cal OES, are responsible. For example, Cal OES is the lead agency responsible for coordinating resources to support local jurisdictions before, during, and after emergencies, such as through locating and delivering emergency response supplies and equipment; distributing federal emergency management funding; and coordinating the State's efforts related to emergency communications, fire response and rescue, and long-term recovery. Other state agencies have roles in disaster response as well: for instance, the California Health and Human Services Agency is responsible for coordinating actions to assist responsible jurisdictions in meeting the needs of evacuees displaced during disasters. These needs may relate to food assistance, sheltering, and recovery.

Natural Disasters and Individuals With Access and Functional Needs

When a natural disaster occurs, some people may have needs that cannot be met by traditional emergency response and recovery methods. The emergency management community refers to those needs as *access and functional needs*. As the text box describes, people may have access and functional needs for a variety of reasons. Emergencies have different effects on people with different types of needs. Figure 2 provides examples of the types of access and functional needs that individuals may have during an emergency.

Individuals Can Have Access and Functional Needs Due to:

- Developmental or intellectual disabilities
- Physical disabilities
- Chronic conditions
- Injuries
- Limited or no English proficiency
- Age, including older adults and children
- Living in institutionalized settings
- Low income
- Homelessness
- Transportation disadvantages, including dependency on public transportation
- Pregnancy

Source: State law.

Although everyone is vulnerable during a natural disaster, people with access and functional needs are more vulnerable than others because of those needs. Past events have shown that these individuals are disproportionately affected by natural disasters. The United Nations reports that people with certain access and functional needs are two to four times more likely to die as a result of a natural disaster. Such people can represent a substantial portion of the population. Consequently, ensuring that emergency plans contain strategies for protecting and assisting these vulnerable populations is critical. However, as Figure 3 shows, emergency response

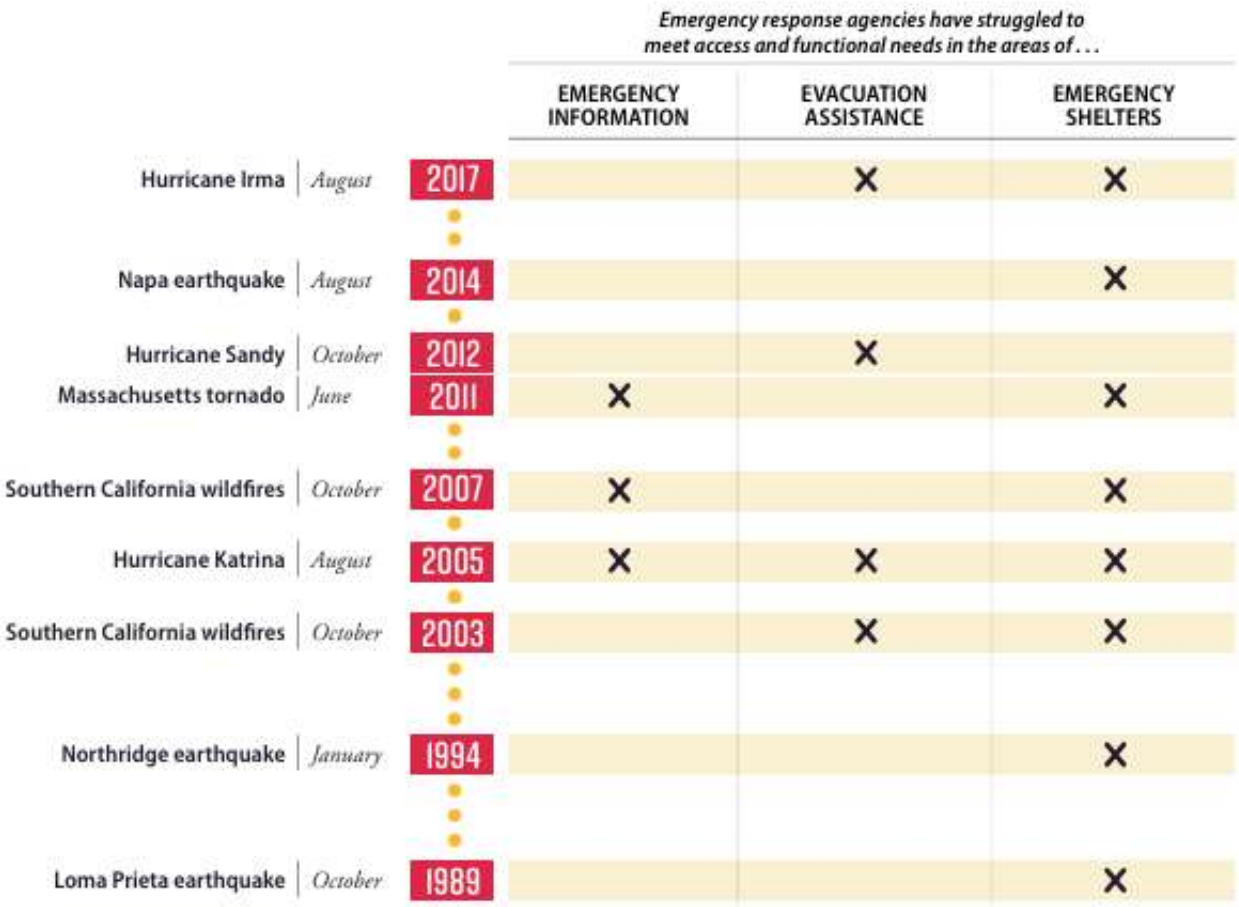
agencies have historically struggled to adequately assist people with access and functional needs during natural disasters. Of particular note in these disasters are three key areas of emergency response and recovery in which their needs were not always met: alerting and warning, evacuating, and sheltering.

Figure 2
Individuals With Access and Functional Needs May Require a Variety of Services in Natural Disaster Situations



Source: FEMA, Cal OES, and nongovernmental organization guidance on emergency planning.

Figure 3
For Many Years, Emergency Response Agencies Have Struggled to Assist People With Access and Functional Needs



Source: After-action reports published by city, county, and state governments, and external reviews of disaster response and recovery by FEMA, the Government Accountability Office, the California State Independent Living Council, and the National Council on Disability.

Struggles to meet individuals' access and functional needs received national attention following Hurricane Katrina in August 2005. One of the most destructive natural disasters in American history, Hurricane Katrina is estimated to have caused more than 1,800 fatalities. A report from the U.S. Department of Homeland Security on the federal response to Hurricane Katrina stated that 71 percent of the fatalities in Louisiana—where the majority of the fatalities occurred—were people over the age of 60. Further, the National Council on Disability—an independent federal agency charged with advising the federal government on policies and programs that affect people with disabilities—reported that a disproportionate number of the people who died had disabilities. Reviews of the emergency response to Hurricane Katrina revealed significant gaps in agencies' preparedness to protect people and,

in some cases, specifically people with access and functional needs. For example, some people who were deaf were unable to understand important emergency information.

In response to gaps in emergency preparedness and response, Congress passed the Post-Katrina Emergency Management Reform Act of 2006 (Reform Act). The Reform Act contained provisions for improving planning to meet access and functional needs. Among other things, the Reform Act required various federal departments—including FEMA and the Federal Highway Administration—to develop guidelines for emergency management that include consideration of individuals with disabilities. Although the Reform Act directs many of its requirements at federal departments, it also requires states that receive federal funding for preparedness assistance to annually report to FEMA on their level of overall preparedness, including an assessment of the state's compliance with NIMS. This assessment includes, for example, the percentage of local jurisdictions that have adopted NIMS, whether the state has implemented a NIMS training program, and what actions the state has taken to support inventorying emergency response resources.

California's Efforts to Meet Access and Functional Needs

Following Hurricane Katrina, California also made changes to improve its emergency response for people with access and functional needs. In 2008 Cal OES established its Office of Access and Functional Needs, which, as of July 2019, had five full-time staff positions and is led by the chief of that office. According to the state plan, the purpose of that office is to identify the access and functional needs individuals may have before, during, and after disasters and to integrate disability needs and resources into the State's emergency management systems. Since its inception, the office has published guidance documents and developed a training course on how local jurisdictions should integrate those needs into emergency planning.

More recently, in August 2019, Cal OES and California Volunteers—the state office that manages programs and initiatives aimed at increasing the number of Californians engaged in service and volunteering—awarded $50 million in local disaster resilience grants and announced the official launch of the State's new emergency preparedness campaign, known as *Listos California* (which translates to "Ready California"). According to the award announcement, Cal OES awarded $19 million to community-based organizations that will organize vulnerable and underserved communities in establishing preparedness strategies that reflect their access and functional needs. According to the Governor's related press release, the purpose of these efforts is to build resiliency in vulnerable communities that are at high risk for wildfires and other disasters. The community-based

organizations receiving this money are required to report their progress to Cal OES each quarter until January 2021. Cal OES and California Volunteers awarded the remaining $31 million for purposes such as funding citizen emergency response teams that assist their neighbors before and during disasters, and building a statewide preparedness campaign that is linguistically and culturally appropriate.

Recent Natural Disasters in the Three Counties We Reviewed

The Joint Legislative Audit Committee (Audit Committee) requested that we review three counties' emergency plans to determine the extent to which those plans follow federal and state law as well as best practices in meeting individuals' access and functional needs during natural disasters. We selected three counties that had experienced recent and significant natural disasters: Butte County (Butte), Sonoma County (Sonoma), and Ventura County (Ventura). Each of these counties has had multiple natural disasters in the last five years, including wildfires and severe winter storms. In our review, we focused on recent wildfires that were devastating and unprecedented: the November 2018 Camp Fire in Butte; the October 2017 Sonoma Complex Fires in Sonoma, which included the Tubbs Fire and the Nuns Fire; and the December 2017 Thomas Fire in Ventura. As Table 1 shows, these fires were among the most deadly and destructive in California history. At the times that the Tubbs Fire and Thomas Fire occurred, they were ranked as the most destructive and largest wildfires, respectively, in the history of the State. The Camp, Sonoma Complex, and Thomas Fires all spread rapidly, with strong winds driving each fire's progression. Although thousands of firefighters responded, the size and speed of the fires strained the firefighters' ability to quickly contain them.

Table 1
Butte, Sonoma, and Ventura Recently Experienced Three of the Most Destructive and Deadly Wildfires in California's History

			HISTORICAL RANK	
NAME	COUNTY	DATE	MOST DESTRUCTIVE	DEADLIEST
Camp	Butte	November 2018	1st	1st
Tubbs*	Sonoma	October 2017	2nd	4th
Nuns*	Sonoma	October 2017	9th	†
Thomas	Ventura	December 2017	10th	†

Source: California Department of Forestry and Fire Protection reports.

* These fires were two of the largest among a group of fires that are collectively known as the Sonoma Complex Fires.

† These fires do not rank among the 10 deadliest wildfires.

The Audit Committee asked us to determine the number of casualties that resulted from natural disasters in the last five years. As Table 2 shows, the majority of these fatalities involved older individuals. As of the date of this report, the three counties were in different stages of recovery. Sonoma and Ventura have turned to rebuilding. As of October 2019, Butte still had two shelters operating at campground facilities that were housing evacuees from the Camp Fire who were waiting to transition to more permanent housing arrangements.

Table 2
The Majority of Natural Disaster Fatalities in the Last Five Years in the Three Counties Were Older Adults

COUNTY	FATALITIES	FATALITIES 65 YEARS OF AGE OR OLDER	FATALITIES WHERE THE CORONER RECORDS NOTED A POTENTIAL ACCESS OR FUNCTIONAL NEED*
Butte	85†	67	13
Sonoma	24	18	7
Ventura	5	3	0

Source: Analysis of death investigation reports and autopsy records the Sonoma County Sheriff Coroner's Office, the Ventura County Medical Examiner's Office, and the Butte County Sheriff Coroner's Office provided for individuals who died as a result of natural disasters.

Note: At Butte and Sonoma, all of the fatalities occurred as a result of the Camp and Sonoma Complex Fires. In Ventura, the fatalities occurred as a result of the Thomas Fire and the 2018 Woolsey Fire.

* Our ability to determine the number of fatalities with access and functional needs was limited by what was stated in the reports provided by each county. As such, we have no way to determine whether these numbers represent the total number of fatalities of people with access and functional needs.

† As of October 2019, one of the fatalities in Butte County remained unidentified. Although we included that person in the total fatalities, we were unable to determine the decedent's age or possible access and functional needs.

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Chapter 1

THREE COUNTIES ARE NOT ADEQUATELY PREPARED TO PROTECT THEIR MOST VULNERABLE RESIDENTS DURING NATURAL DISASTERS

Butte, Sonoma, and Ventura are not as prepared as they could be to protect their residents during future natural disasters because they have not followed key practices for emergency planning. FEMA and other emergency management authorities have published best practices for effectively planning for natural disasters, including how to assist people with access and functional needs. However, none of the three counties we reviewed fully followed these practices before recent wildfires: the Camp Fire in Butte, the Sonoma Complex Fires in Sonoma, and the Thomas Fire in Ventura. As a result, they lacked up-to-date and complete plans for the key emergency functions of alerting, evacuating, and sheltering their residents. In the absence of such plans, the counties were underprepared to issue effective alerts and warnings, and they struggled to promptly obtain the resources necessary to evacuate and shelter individuals with access and functional needs during recent wildfires. Given the weaknesses we identified in the three counties' plans and the struggles local jurisdictions have had in assisting people with these needs, the State must take a more active role in ensuring that local jurisdictions maintain effective plans for responding to natural disasters.

The Three Counties Have Not Followed Key Emergency Planning Practices

Despite available guidance and the potentially devastating effects of being underprepared for a disaster, the three counties we reviewed have not followed key practices of emergency planning. California's Emergency Services Act does not require local jurisdictions to develop emergency plans, but FEMA states that leaders in jurisdictions are responsible for taking necessary and appropriate actions to protect people from threats and hazards, which would include natural disasters. FEMA, the American Red Cross (Red Cross), Cal OES, and other entities listed in the text box have published guidance that they advise emergency management agencies to follow so that the agencies develop the best possible emergency plans. Included in this guidance is FEMA's comprehensive guide to emergency planning, which FEMA states is the foundation for emergency planning in the United States and contains the fundamentals of planning

Selected Sources of Best Practices for Planning for People With Access and Functional Needs

Federal:

- FEMA
- American Red Cross
- National Council on Disability
- U.S. Department of Justice

State:

- Cal OES
- California Department of Transportation
- California State Independent Living Council

Source: Publicly available best practices.

and developing emergency plans. Among these practices are having specific plans for critical emergency functions and ensuring that those plans address the needs of the whole community that an agency serves. FEMA and Cal OES have also published guidance that advises emergency planners to prearrange for important resources, such as transportation and shelter supplies. However, the three counties did not fully implement these important practices before the recent wildfires we reviewed, and as Figure 4 shows, the counties still have not done so. As a result, these counties are less prepared for future natural disasters, which may place their residents at greater risk of harm.

Figure 4
The Three Counties Are Not Adequately Prepared for Natural Disasters



Source: Emergency planning documentation at Butte, Sonoma, and Ventura, and FEMA guidance.

None of the Counties Have Up-to-Date Plans for Key Emergency Functions

Under the state plan, local governments should have one main plan called an *emergency operations plan* that assigns responsibility to the appropriate departments within the local government for providing support to people during an emergency. For example, a county may assign responsibility for issuing alert and warning messages to its sheriff's department and assign responsibility for managing emergency shelters to its social services department. As part of the emergency operations plan, counties can develop *functional annexes*, which are appended to the emergency operations plan and focus on critical operational functions,

including how the jurisdiction implements those functions before, during, and after an emergency.[1] However, at the time of the wildfires we reviewed, the three counties we visited either lacked or had outdated plans for the critical emergency functions of communicating alert and warning messages, evacuating residents, and sheltering evacuees.[2]

Despite having emergency operations plans, before their recent wildfires, Sonoma and Ventura lacked plans for issuing alerts and warnings and evacuating residents.

Despite having emergency operations plans, before their recent wildfires, Sonoma and Ventura lacked plans for issuing alerts and warnings and evacuating residents. Ventura also lacked a sheltering plan and Sonoma had only a draft sheltering plan; since the Thomas Fire and Sonoma Complex Fires, neither county has completed any of these plans. As we discuss in more detail throughout this chapter, Sonoma has—in response to the wildfire—taken recent steps toward creating plans or guidance in these key areas of emergency response; however, it has not yet finalized any of its work. Ventura has developed draft plans for alert and warning and sheltering, but for reasons we describe in more detail later, it does not believe it needs a full evacuation plan.

During our review, Ventura stated that a separate plan it developed in May 2016 specifically for addressing access and functional needs (access and functional needs plan) was evidence that it had adequately planned to meet these needs. However, this plan is problematic for several reasons. First, the county has not implemented key portions of the plan, including steps that are advised in FEMA or Cal OES's best practices. For example, FEMA states that local jurisdictions should have plans for alert and warning, evacuation, and sheltering, and that each should include strategies for how the county will assist people with access and functional needs. Although Ventura's access and functional needs plan indicates that Ventura will more fully address how it will meet these needs in separate plans for alert and warning, evacuation, and sheltering—Ventura had not finalized any such plans as of early October 2019. Also, the plan states that Ventura will work to ensure that alert and warning messages are accessible to residents who do not speak English. As we describe later in this chapter, Ventura did not issue alert and warning messages at the beginning of the Thomas Fire in any languages other than English. Finally, having a separate plan for people with access and functional needs is not aligned with Cal OES's guidance. The guidance that Cal OES provides as part of its training on planning to meet access and functional needs

[1] Throughout our report, we use the term *plan* when referring to both the counties' emergency operations plan and their functional annexes.

[2] Butte provided an updated alert and warning plan after we sent a draft copy of our report to Butte for its final comment. Butte provided no evidence that the plan had been approved or finalized. We look forward to reviewing the extent to which the plan incorporates best practices and addresses access and functional needs as part of our 60-day follow-up to this report.

states that although plans for specific emergency functions are part of standard emergency planning practices, access and functional needs integration should occur throughout a plan instead of being addressed in a stand-alone document. Cal OES specifically told Ventura that having a stand-alone plan was not advisable when it reviewed Ventura's emergency plans in 2016. During that review, Cal OES recommended that Ventura ensure that all of the information in its access and functional needs plan was distributed throughout its emergency operations plan, which it has not done.

Butte had plans for alert and warning, evacuation, and sheltering at the time of the Camp Fire. However, it completed those plans and its emergency operations plan in February 2011, which makes them significantly outdated.

Unlike Sonoma and Ventura, Butte had plans for alert and warning, evacuation, and sheltering at the time of the Camp Fire. However, it completed those plans and its emergency operations plan in February 2011, which makes them significantly outdated. FEMA guidance states that maintaining updated plans is critical to the continued utility of those plans and that local jurisdictions should review and update their plans at least every two years. It further states that outdated plans can cause setbacks for local jurisdictions because of old information, ineffective procedures, incorrect role assignments, and outdated laws. Further, state law requires Cal OES to update the state plan every five years, so we would expect that counties would update their plans with at least similar frequency. Weaknesses in Butte's emergency plans support FEMA's observations about potential problems with outdated plans. Some of the response strategies that the plans describe are not reflective of more recent changes to Butte's actual response processes. For example, its alert and warning plan does not discuss Butte's addition of a major federal alert and warning system, the Integrated Public Alert and Warning System, to its repertoire of alert and warning strategies. As a result, the plan does not articulate how the county will use that system during an emergency, which increases the risk that the county will not use it effectively.

In May 2019, Butte convened its public alert and warning working group. According to the sheriff's office liaison (sheriff's liaison) for emergency planning, it created this group to update its 2011 alert and warning plan. Butte provided us with a draft version of this plan in September 2019. The draft includes updated considerations for Butte's alerting methods, including how it plans to use the Integrated Public Alert and Warning System. The sheriff's liaison explained that it updated this plan for several reasons, including recent changes to state law that make its receipt of emergency response funding contingent on having an updated and current alert and warning plan, as well as the county's desire to improve coordination of emergency notifications with neighboring jurisdictions, and to identify the delivery methods of emergency notifications. However, as of early October 2019, this plan remained in draft form, and Butte's plans for evacuation and sheltering were still the versions from February 2011.

According to the county administrative officer at Butte, there are a variety of reasons why it has not updated these key emergency plans. For one, the Great Recession and the recent multiyear drought caused an extended period of limited resources in the county. In addition, county resources have been devoted to responding to and recovering from an increased number of natural disasters, including the 2018 Camp Fire, which we acknowledge is an effort to recover from the most destructive and deadliest wildfire in the history of the State. Nonetheless, it is critically important for Butte to update its plans given the benefits that updated emergency plans could provide to the county, and given that in a hazard threat assessment it released to the public in September 2019, Butte predicted that the county is highly likely to experience a variety of natural disasters in the future.

Advance planning is critical to a local jurisdiction's ability to effectively respond to emergencies because—among other benefits—the plans can clarify responsibilities, identify how to respond in multiple scenarios, and improve the ability to effectively manage response operations in the face of the complexity and uncertainty inherent in natural disasters. According to FEMA, emergencies often evolve rapidly and become too complex for effective improvisation. We recognize—as FEMA states—that using a prescribed planning process cannot guarantee success. However, FEMA has also observed that inadequate plans and insufficient planning are proven contributors to failure. Therefore, to the extent they do not follow key planning practices—such as having up-to-date, key emergency plans—these three counties' abilities to effectively respond to natural disasters are likely to be impaired.

The Counties Have Not Adequately Assessed Their Communities to Determine Needs

In addition to missing or outdated plans, before the wildfires the three counties had not adequately tailored their existing emergency plans to the needs of their communities, nor have they done so in the draft plans that they have developed since the fires. FEMA states that the demographics of a population, including its resources and needs, have a profound effect on emergency response functions, such as evacuation and sheltering. It recommends that local jurisdictions conduct demographic assessments of their communities to understand the needs that the people in their communities will have during an emergency. Local jurisdictions can then use this information to help ensure that they can meet those needs. FEMA also warns that failing to base emergency planning on the demographics and requirements of a particular community may lead to false planning assumptions, ineffective courses of action,

FEMA states that the demographics of a population, including its resources and needs, have a profound effect on emergency response functions, such as evacuation and sheltering.

and inaccurate resource calculations. Despite this guidance, none of the three counties we reviewed has completed an assessment of its population and that population's needs.

Emergency managers should use information compiled from multiple relevant sources—including social service listings and housing programs, among others—when developing an understanding of the number of individuals who have access and functional needs.

According to FEMA guidance, emergency managers should use information compiled from multiple relevant sources—including social service listings and housing programs, among others—when developing an understanding of the number of individuals who have access and functional needs in their community. Using multiple sources enables emergency management agencies to obtain a more precise understanding of the magnitude of the need in their community and of the geographic location or concentration of those needs. Emergency managers can then make more informed decisions about the level of resources they may require during emergencies. General, county-level census data cannot provide this level of specificity.

Ventura's emergency plans do not include any demographic information. The staff emergency manager explained that the county does not conduct demographic assessments before a disaster because it does not have a good source of data, due to individuals moving or passing away. He explained that his department recently developed an interactive map of licensed skilled nursing facilities and group homes, which it can use before and during an incident. Although these data could be helpful during the planning process, they do not capture the full scope of Ventura's vulnerable community. As we discuss in the Introduction, state law includes in its definition of *access and functional needs* individuals who are homeless, who have transportation disadvantages, or who have limited English proficiency. Therefore, we expected Ventura to have conducted a more complete demographic assessment that includes these individuals to inform its emergency planning.

Butte's and Sonoma's emergency plans contain some demographic information about their populations but lack the more informed estimates called for by best practices. For example, Sonoma's emergency operations plan lists only general census data for the county and Butte's 2015 plan for extreme cold and its 2018 plan for extreme heat indicate that the county has two main populations of individuals who may not understand English. Further, Butte has another emergency plan that its Public Health Department developed in 2015 that contains demographic data from the census and information about the number of skilled nursing and assisted living facilities, among other statistics. Similar to Ventura, this information could be helpful to emergency planning, but it is not representative of the full range of access and functional needs. Also, this information does not appear to have informed Butte's key plans for alert and warning, evacuation, and sheltering as those

plans were developed before Butte compiled the demographic information found in its extreme temperature and public health plans.

No County We Reviewed Has Fully Assessed and Prearranged to Obtain the Resources It Would Need in a Disaster

A final, important planning practice that the three counties did not fully address before the wildfires—and still have not fully addressed—is ensuring the availability of critical resources during natural disasters. When a natural disaster occurs, local jurisdictions must obtain a variety of resources to support important emergency response functions, including evacuating and sheltering people. Examples of these resources include accessible transportation and medical supplies for shelters. FEMA guidance states that during the planning process, local jurisdictions should conduct assessments of the resources that they will need during disasters and identify how they will obtain those resources; for example, by developing memoranda of understanding. The state plan says that public-private partnership agreements can provide for quick access to emergency supplies and essential services. However, as we describe in this chapter, none of the counties have prearranged transportation agreements for providing evacuation assistance. Although Butte has prearranged for many emergency shelter supplies, neither Sonoma nor Ventura have made arrangements to obtain key resources for sheltering, such as accessible cots.

None of the counties have prearranged transportation agreements for providing evacuation assistance.

The Three Counties Varied in Their Views on Implementing These Planning Practices

The counties differed in their perspectives regarding adherence to these key planning practices. According to Butte's county administrative officer, Butte cannot take on additional planning responsibilities without financial and technical assistance from the State. Ventura was agreeable to implementing some, but not all, of the best practices. For example, the staff emergency manager agreed that Ventura should create a more standardized approach in developing its emergency plans, including engaging with representatives of access and functional needs when developing the plans. However, he did not agree with the practice of developing an all-hazards evacuation plan. Rather, he believed that Ventura's current approach to managing evacuations has been effective.

Following the Sonoma Complex Fires, Sonoma developed and approved a plan it calls its *recovery and resiliency framework*. This framework describes steps that Sonoma plans to take to recover

from the wildfires and improve its preparedness for future natural disasters, as well as timelines for accomplishing these steps. Included among these steps are actions that overlap with some of the best practices that we reviewed and describe throughout this chapter. For example, the framework states that Sonoma will develop a comprehensive alert and warning program, it will identify essential services and resources necessary during a disaster and, to the extent possible, it will have contracts or memorandums of understandings in place. The plan also makes repeated references to the vulnerability of persons with access and functional needs during natural disasters and specifically states that to achieve equity, Sonoma will identify and meet the needs of these populations before, during, and after natural disasters.

Despite this commitment to improving its preparedness through best practices, Sonoma's director of emergency management expressed concern at how costly some of the practices we discuss in this report are to implement, how impractical he believes it would be to implement them, and how not all best practices are relevant to all organizations. For example, he believes that no county emergency management agency in California currently conducts the type of demographic assessments that FEMA recommends as part of the emergency planning process because of the costs associated with regularly updating such an assessment. Although he could not provide a formal estimate of the costs of implementing best practices for addressing access and functional needs, he provided a gross estimate that doing so would require at least 10 percent more spending on emergency planning and preparedness efforts. Using the fiscal year 2019–20 budget for Sonoma's department of emergency management, that equates to roughly $360,000. The director of emergency management did not specify whether his cost estimate accounted for the actions Sonoma has already committed to completing in its recovery and resiliency framework.

It is impossible to determine whether any additional planning efforts by the counties would have changed the outcomes of the Camp Fire, Sonoma Complex Fires, and Thomas Fire, which were devastating and unprecedented.

It is impossible to determine whether any additional planning efforts by the counties would have changed the outcomes of the Camp Fire, Sonoma Complex Fires, and Thomas Fire, which were devastating and unprecedented. However, as we describe in the following sections, these counties' planning deficiencies likely hindered their response to recent wildfires, in particular related to protecting and assisting people with access and functional needs. In the remainder of this chapter, we describe our review of each county's plans in key areas that relate to protecting and assisting people with access and functional needs as well as the counties' processes during planning for ensuring that they can meet those needs. Figure 5 summarizes those areas.

Figure 5
We Reviewed Key Areas of Emergency Management at Each of the Three Counties



Source: Auditor analysis, state law, and FEMA guidance.

Despite Available Best Practices, None of the Three Counties Adequately Involved Representatives of People With Access and Functional Needs in Its Planning Process

Best practices from FEMA and Cal OES suggest that emergency management agencies should involve individuals with a variety of access and functional needs in all aspects of the planning process because those individuals understand what they will need during disasters. For similar reasons, the best practices also recommend involving local community organizations that serve these individuals. For example, organizations that provide services to people who are deaf or hard of hearing can provide information on how counties should communicate critical information, such as evacuation alerts, to such individuals during emergencies. Further, Cal OES's guidance notes that community organizations already have established networks in the communities they serve. The text box identifies examples of actions from Cal OES guidance that counties should take to involve such community organizations in their emergency planning. As Figure 6 shows, the three counties we reviewed all have significant populations of people with access and functional needs; however, the counties did not adequately involve representatives of these people in their emergency planning efforts.

Actions Counties Should Take to Involve Community Organizations in Emergency Planning

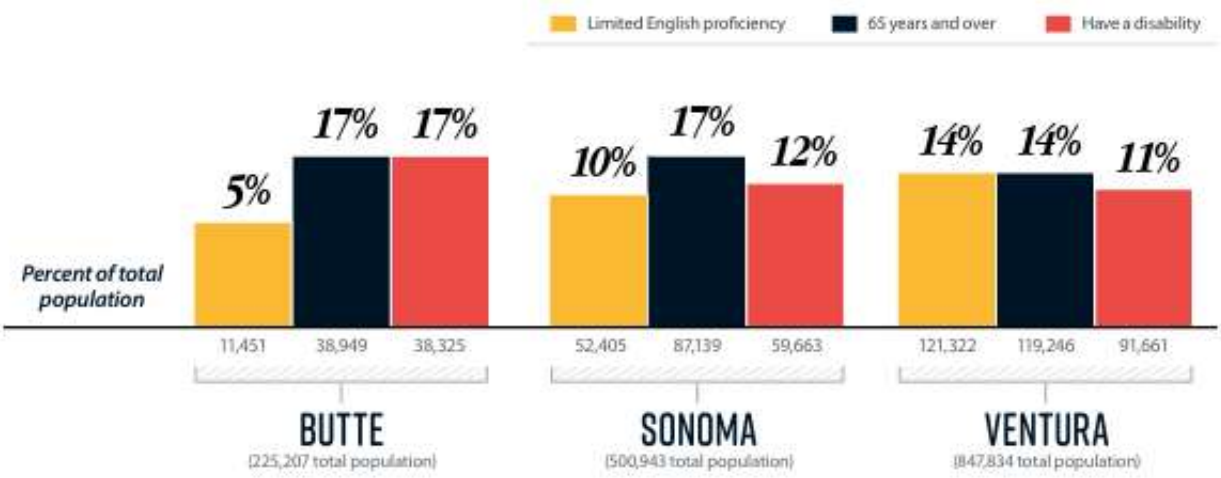
- Meet with them frequently to discuss emergency preparedness.
- Identify the resources at their disposal to aid their clients during emergencies.
- Aid them in developing emergency plans for themselves.
- Involve them in training and exercises.
- Include representatives from the organizations on committees that approve emergency plans.

Source: Cal OES guidance.

Butte and Sonoma asserted that they had, to some degree, involved these representatives in the development of their emergency plans. Specifically, Butte and Sonoma generally stated that they had met with one to two organizations representing people with certain access and functional needs during the development of their emergency plans. In addition, Sonoma stated that it brought its draft emergency plan to a meeting with one of the organizations for its members to review, and Butte asserted that it included the

organizations it met with in its planning discussions. However, neither county was able to provide documentation demonstrating the level of involvement that these organizations had in the planning process. Staff at both Butte and Sonoma stated that they did not retain that documentation because their document retention policies required them to destroy it. Sonoma's director of emergency management further stated that retaining that documentation is not an industry standard.

Figure 6
The Counties Have Significant Populations of People With Access and Functional Needs



Source: U.S. Census data for Butte, Sonoma, and Ventura.

Note: Some people may be counted more than once because they have multiple access and functional needs. For example, a person with limited English proficiency may also have a disability.

When we asked Ventura's staff emergency manager whether Ventura had included representatives of people with access and functional needs in its emergency planning process, he indicated there were two ways in which he believed it had done so. First, he explained that Ventura's emergency planning council, which is responsible for reviewing and adopting emergency plans, includes a representative for nongovernmental organizations, and he claimed that this individual coordinates input from a few organizations that represent specific access and functional needs populations. However, this planning council is not involved in developing the emergency plan, and the organizations that Ventura claimed are represented by this individual are not inclusive of all types of access and functional needs. The staff emergency manager also stated that the county's plan for access and functional needs was developed in partnership with representatives of people with

those needs. This plan states that its purpose is to provide an overview of Ventura's policy with respect to emergency planning and emergency services for citizens with access and functional needs. It further states that Ventura would establish and coordinate a planning group with a diversity of access and functional needs represented and that this group would ensure that Ventura's emergency plans were inclusive. However, according to the staff emergency manager, this planning group was used solely for developing this access and functional needs plan, and the group no longer exists. Further, he is neither aware of nor does he have documentation as to who was part of this planning group because he was not responsible for organizing the group. As we describe earlier, we determined that Ventura's separate plan for addressing access and functional needs was counter to best practices, which recommend that emergency planners integrate plans for meeting access and functional needs into the overall plans rather than creating a separate plan. We also determined that Ventura has not followed through with key tasks that the plan said it would perform in advance of a disaster.

The practices that the counties described to us fall short of the best practices we identified for involving individuals with access and functional needs in planning. FEMA states that the most realistic and complete emergency plans are prepared by a diverse planning team that includes, among others, representatives of people with a variety of access and functional needs. As our Introduction describes, *access and functional needs* is a term that encompasses many needs or challenges that individuals may have. Emergency management agencies must plan to employ multiple strategies to meet these various needs and challenges during an emergency. By consulting only a few of these organizations, the counties have not obtained participation and viewpoints from the full range of people with access and functional needs in their communities. For example, none of the counties claimed to have engaged communities with limited English proficiency when developing their existing emergency plans, which would limit their ability to incorporate these communities' perspectives in their planning.

None of the counties claimed to have engaged communities with limited English proficiency when developing their existing emergency plans, which would limit their ability to incorporate these communities' perspectives in their planning.

Further, when we spoke to several community organizations in each of the three counties, the majority reported that their county's emergency management agency had never consulted or involved them. Some of these organizations also reported that during the recent wildfires, they provided direct assistance to people with access and functional needs. However, the counties had apparently not taken advantage of these vital sources for critical information, thereby missing an opportunity to learn what individuals in these communities need during natural disasters and how the counties could prepare to meet those needs.

An additional benefit of involving organizations that serve people with access and functional needs in emergency planning is that it may increase individuals' preparedness.

An additional benefit of involving organizations that serve people with access and functional needs in emergency planning is that it may increase individuals' preparedness. However, because the counties did not adequately involve these representatives, they missed an opportunity to realize this benefit. According to FEMA guidance, including community leaders in planning reinforces the expectation that community members have a shared responsibility during natural disasters and strengthens the public's motivation to conduct planning for themselves and their families. As Figure 7 indicates, people with access and functional needs can take numerous actions to prepare themselves for natural disasters. These actions can make a significant difference in ensuring their safety when a natural disaster occurs. By doing more to engage communities of people with access and functional needs in their planning processes, counties can encourage everyone's emergency preparedness.

Butte's emergency manager believed that until recent significantly sized events in 2017 and 2018, the planning process that Butte used had proven to be adequate. However, she stated that she will ensure that Butte follows best practices and communicates with representatives of people with access and functional needs when developing its emergency plans. Similarly, Ventura's staff emergency manager agreed that Ventura should engage representatives of these communities in future planning efforts. However, he also questioned whether many organizations exist in Ventura County that represent individuals with disabilities because he was not personally aware of them. As we discuss earlier, counties should involve representatives of people with a variety of access and functional needs, not just people with disabilities, in the planning process.

Sonoma's director of emergency management disagreed with our assessment of how well the county involved representatives of individuals with access and functional needs in its emergency planning process. However, he was unable to provide documentation to refute our conclusions. For example, he stated that his department sought feedback from the county's access and functional needs committee when developing its emergency plans, including its draft alert and warning plan. However, the chair of this committee—which includes representatives from various access and functional needs communities—stated that although he was aware that Sonoma was developing an alert and warning plan, the committee has not been involved in that process. Further, the chair noted that there is no formal process at Sonoma for ensuring that the committee he chairs is incorporated in the planning process. FEMA states that representatives of access and functional needs communities should be incorporated into all aspects of the planning process. In the sections that follow, we describe the counties' responses to natural disasters and how more adequate planning could have supported their response efforts.

Figure 7
People With Access and Functional Needs Can Take Steps to Prepare for Natural Disasters



Source: Best practices from FEMA, Cal OES, and the National Council on Disability.

None of the Three Counties Prepared Adequately to Warn Residents of Impending Danger From the Wildfires

When natural disasters occur and threaten people's safety, timely alert and warning messages can mean the difference between life and death. These emergency communications are directed at the public to attract their attention and, in some cases—such as evacuation warnings—persuade them to take action to protect themselves. Alert and warning messages are most effective when emergency management agencies issue them quickly and ensure that they are understandable. Any delay in people's receipt or

understanding of alert and warning messages directing them to evacuate or otherwise protect themselves can threaten their safety or even their lives. Alerting agencies can use several methods to send these important messages, as the text box shows.

Methods That Governments Can Use to Alert and Warn Residents

- Voice messages
- Text messages
- Emails
- Social media
- Websites
- Teletypewriters (TTY)
- Radio
- Television
- Door-to-door notifications
- Loudspeakers through neighborhoods
- Sirens

Source: FEMA, U.S. Department of Homeland Security, and Cal OES guidance.

Best practices for alerting and warning the public about natural disasters identify key issues that counties should consider when establishing their approaches to emergency communications. First, FEMA and Cal OES suggest that because no single method will reach all people, counties should plan to use several methods to maximize the number of people who receive an alert or warning. In addition to addressing the diverse ways people receive information, this approach can also help messages reach intended targets when a natural disaster has destroyed key infrastructure used to transmit such messages. Also, the U.S. Department of Homeland Security encourages emergency management agencies and other alerting authorities to plan for the accessibility of their messages so as to better reach populations with access and functional needs. For example, agencies can alert people who are deaf by ensuring that messages are written because people who are deaf would be unable to hear an audio phone call or listen to a radio broadcast for emergency information.

However, despite the critical importance of alert and warning messages, the counties we reviewed did not fully adhere to best practices for planning to issue these messages. As discussed previously, none of the counties had updated alert and warning plans. FEMA guidance states that an alert and warning plan should identify and describe the actions that locals will take to initiate and disseminate the initial notification that a disaster or threat is imminent or has occurred. This guidance further states that this plan should identify and describe the actions that will be taken to alert individuals with sensory or cognitive disabilities and others with access and functional needs in the workplace, in public venues, and in their homes. As noted earlier, Butte had an alert and warning plan, but it was outdated, as it made no mention of a significant federal alert system that it had access to. Ventura had standard operating procedures that describe the use of one specific system that it uses for sending alert and warning messages. Although the staff emergency manager asserted that this set of procedures was Ventura's alert and warning plan, the procedures did not address all of the key components of Ventura's warning system. Further, procedures for operating a specific alerting system are not a sufficient replacement for a comprehensive alert and warning plan.

All three counties asserted that they used multiple methods for alerting and warning people during the wildfires we reviewed, including many of the methods listed in the earlier text box. As we previously describe, the size and scope of those wildfires were devastating and unprecedented. We recognize that even if the counties had implemented all best practices related to issuing alert and warning messages, it is unlikely that they would have alerted every single person within their evacuation zones because of infrastructure challenges and the limitations of any given alerting method. However, as noted above, employing the best practices can help counties to maximize the number of people who receive critical alert and warning messages. By not implementing these best practices in their planning, the counties impaired their abilities to effectively warn residents of the impending dangers from the wildfires we reviewed, as Figure 8 shows.

Benefits of Using a WEA Instead of Opt-In Emergency Notification Systems

WEA

- Can reach all cell phones in an area.
- Generates unique alert tones and vibration pattern.
- Not affected by cellular network congestion.

Opt-In Systems and Landline Contact Information

- Reaches only landlines and cell phones that owners have preregistered to receive alerts.
- Looks and sounds like a regular text message or phone call.
- Disrupted by cellular network congestion.

Source: U.S. Department of Homeland Security, FEMA, and Cal OES guidance regarding alert and warning systems.

Butte and Sonoma Did Not Send Messages That Could Reach All Residents With Cell Phones

In response to the recent wildfires, neither Butte nor Sonoma alerted their residents using a system designed to send warning messages to all cell phones in the evacuation area. FEMA built a system that allows emergency management agencies and other alerting authorities to issue alert and warning messages called Wireless Emergency Alerts (WEA messages). As the text box describes, using the federal system to send WEA messages provides distinct advantages over the use of opt-in emergency alert systems and landline contact information. These advantages give WEA messages the capacity to alert a significantly greater number of people in an evacuation zone, including people with access and functional needs. During the Thomas Fire, Ventura issued WEA messages to notify people about the threat and direct them to more disaster information.

However, neither Butte nor Sonoma issued WEA messages during the Camp and Sonoma Complex Fires, respectively. Instead, these two counties issued emergency messages through their local emergency alert and warning systems. According to the counties, their systems use contact information, such as cell phone numbers, that residents provide, as well as landline contact information that the counties purchase from service providers. However, using only these opt-in systems is inherently problematic given the public's declining use of landlines and the small percentage of people who sign up for cell phone alerts. For example, in the aftermath of the Sonoma Complex Fires, the number of phone numbers registered to receive alerts and warnings through

Sonoma's opt-in system represented fewer than 60 percent of the residents of the county. Consequently, even if every resident who had registered received the evacuation warnings that Sonoma sent, a significant percentage of the county's residents still did not receive these critical notifications. Moreover, Sonoma's records show that about 60 percent of the phone calls it made failed to connect, and for Butte, the failure rate was about 50 percent, meaning that many people in the evacuation zones did not receive these critical messages. Although the two counties also used some other methods to alert people during the wildfires, such as email and—in the case of Butte—social media, none of these methods have the ability to reach as many people as quickly as WEA messages.

Figure 8
None of the Counties Adequately Warned Residents of Impending Danger From Wildfire



Source: Alert and warning records at Butte, Sonoma, and Ventura.

The fact that neither Butte nor Sonoma issued alerts and warnings through WEA messages during recent emergencies appears related to deficiencies in their preplanning for a natural disaster. Butte asserted that it attempted to issue a WEA message in the immediate hours after the Camp Fire began but that the messages failed to send through the software program it uses. FEMA guidance on WEA indicates that counties should test their software to ensure that it is functional before using it in a natural disaster. However, staff at Butte acknowledged that they had never tested Butte's software before the Camp Fire. Although testing does not guarantee that problems will not happen during a natural disaster, it is a reasonable step that Butte should have taken. Although Butte still has not finalized plans for issuing WEA messages, it has issued WEA messages to warn residents about potential flooding and to issue evacuation notices since the Camp Fire.

The fact that neither Butte nor Sonoma issued alerts and warnings through WEA messages during recent emergencies appears related to deficiencies in their preplanning for a natural disaster.

According to Sonoma's director of emergency management, who was not in his position during the Sonoma Complex Fires, the county did not issue a WEA message during the fires because the county—under the leadership of the previous emergency manager—planned in advance not to do so. According to Cal OES's post-event review, emergency management in Sonoma believed that the WEA system had limitations, including that it would send messages to those who were not in the intended evacuation zone. Cal OES concluded that staff largely based their decision not to issue a WEA message on their experience, previous policy discussions, and perceived knowledge of the situation; however, they were also influenced both by their limited understanding of the WEA system, referencing Sonoma staff's belief that issuing a WEA message would cause traffic congestion, and by outdated information regarding its capabilities. According to Sonoma's current director of emergency management, at the time of the Sonoma Complex Fires, there was national discussion regarding local governments' concern about using the WEA system for various reasons. He provided a July 2017 letter that Harris County, Texas, submitted to the Federal Communications Commission wherein it shared concerns about the WEA system, including a concern regarding the system's inability to more accurately target areas for alerts. In September 2018, Sonoma conducted a test of the WEA system. In a report summarizing the results of the test, Sonoma noted that the test findings indicated that significant challenges remained regarding the effective use of the WEA system, including incomplete and inconsistent alerting across telecommunication providers, significant bleed-over when targeting specific geographic locations, and the performance of the technology across various wireless devices. The report noted that local emergency managers would have to take these shortcomings into account when developing alert and warning efforts. However, since the fires, Sonoma has created a draft alert and warning

plan that includes plans to issue WEA messages during future disasters. Additionally, Sonoma has since issued WEA messages during more recent emergencies, which suggests that Sonoma recognizes additional benefits to issuing a WEA message despite the limitations it believes the system has.

The Content of Butte's and Sonoma's Alert and Warning Messages Did Not Align With Best Practices

Effective warning messages should include certain key elements, including the source of the warning, the specific hazard and its location, and the protective action that the public should take.

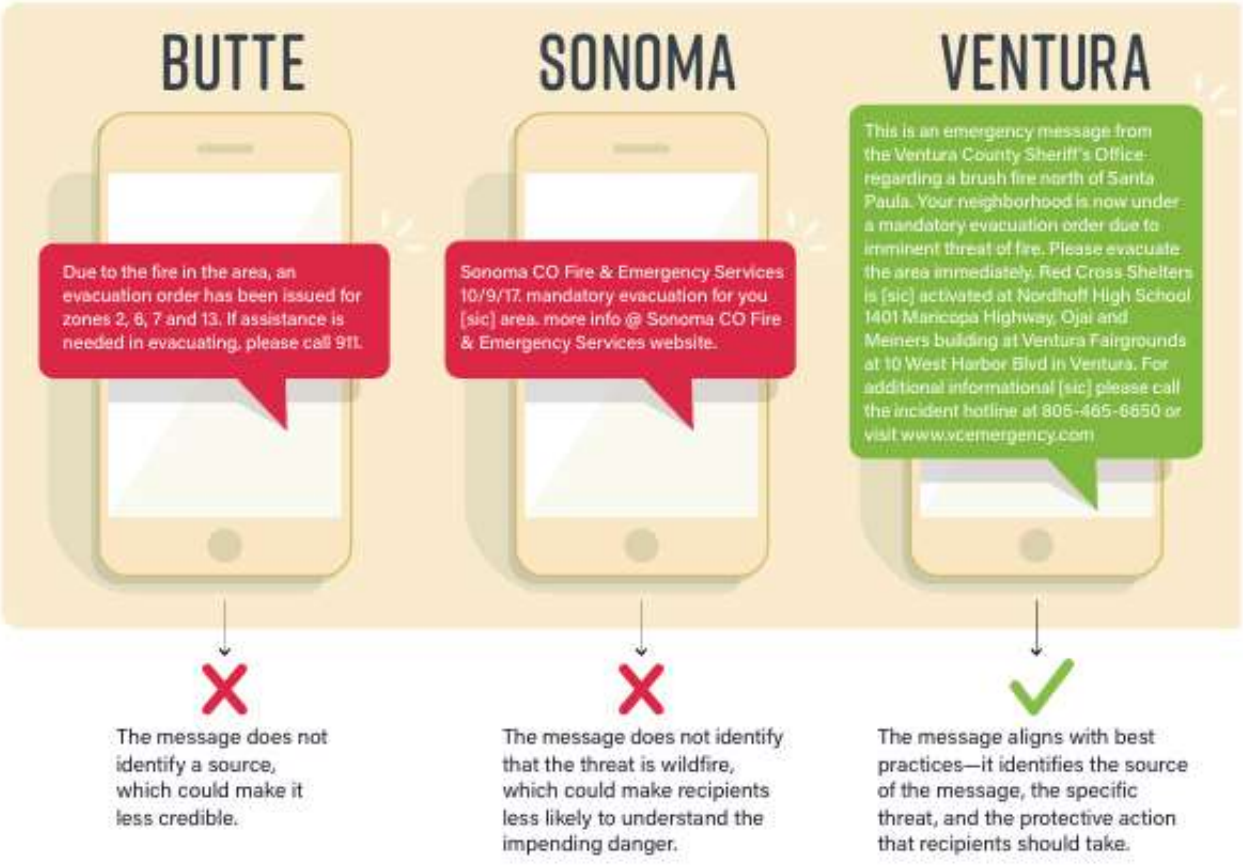
In addition to not sending warnings using the WEA system, Butte and Sonoma did not ensure that the content of their alert and warning messages aligned with best practices. FEMA advises that plans for alert and warning should include pre-scripted messages for specific hazards. According to FEMA, effective warning messages should contain certain key elements, including the source of the warning, the specific hazard and its location, and the protective action that the public should take. However, Butte and Sonoma did not always include all of these elements in the messages that they sent through their opt-in and landline systems. For example, as the example messages in Figure 9 demonstrate, Butte never identified the entity sending its evacuation warnings during the Camp Fire. FEMA advises that warnings should come from sources with credibility, and the National Council on Disability states that the response individuals have to an emergency alert depends in part on the level of trust they have in the source. Therefore, Butte's content in its warning messages made it less likely that recipients would perceive a warning as credible, and they would be less likely to act on it.

According to the sheriff's liaison, the messages did not comply with best practices because Butte's emergency staff was rushed. However, he acknowledged that developing message templates in advance would be beneficial in ensuring that alert and warning messages incorporate key elements, and Butte finalized those templates in October 2019. The templates include the source of the warning messages.

The alert and warning messages that Sonoma issued during the Sonoma Complex Fires contained the key elements identified in best practices more often than those that Butte issued. Unlike Butte's evacuation warnings, Sonoma almost always included the source of the warnings. However, its messages did not consistently identify the specific hazard. Instead, the county sometimes told recipients to evacuate without telling them that a fire was approaching. By not identifying the specific hazard, Sonoma risked that recipients of those warnings would not understand the severity of the impending danger. When we asked Sonoma's director of emergency management why its messages did not consistently

identify the hazard residents faced, he said he could not speculate on the reason because he was not the director of emergency management at the time of those fires. Sonoma has since developed pre-scripted messages for use during natural disasters, and they guide the staff sending the alert to include the nature of the threat.

Figure 9
The Messages That Butte and Sonoma Issued During the Recent Fires Did Not Align With Best Practices for Ensuring That They Were Effective



Source: Analysis of FEMA best practices and emergency alert and warning records from Butte, Sonoma, and Ventura.

Among the three counties, the alert and warning messages that Ventura sent most consistently aligned with best practices. Those messages almost always contained the source of the message, a description of the hazard, and the protective action that recipients should take. Ventura's preparation for natural disasters seems to explain the significantly better messages it sent during its wildfire. Unlike Butte and Sonoma, Ventura had followed the best practice

of developing message templates in advance, which expedited its ability to issue alert and warning messages and to ensure that such messages contained each of the key elements.

None of the Three Counties Sent Crucial Messages in Languages Other Than English

FEMA guidance states that communities with high percentages of non-English-speaking residents should consider issuing warnings in multiple languages and using pretranslated templates to minimize the amount of information that would require translation for actual alerts.

Finally, despite their having significant populations of residents with limited English proficiency, all three counties issued messages directing people to evacuate in English only. As a result, some people likely did not receive potentially lifesaving emergency information in a language that they could understand. FEMA guidance states that communities with high percentages of non-English-speaking residents should consider issuing warnings in multiple languages. FEMA further recommends using pretranslated templates—similar to the pre-scripted English templates we mention above—to minimize the amount of information that would require translation for actual alerts. A local community organization in Ventura told us that during the Thomas Fire, parents with limited English proficiency had to rely on their children for help translating emergency messages. According to this community organization, relying on children to translate made it difficult for individuals to assess the danger of their situations. After that community organization complained to the county about the lack of translated information, Ventura began translating information into Spanish. However, it did not issue its first messages in Spanish until 10 days into the wildfire—too late for those who needed to evacuate before that time. Ventura stated that the need for it to issue alerts in Spanish is evident in hindsight and that it had never previously received feedback that it needed to issue emergency alerts in other languages. During subsequent natural disasters, Ventura has issued alert and warning messages in Spanish and maintains a set of pre-scripted Spanish messages.

Butte and Sonoma offered their own explanations for why they issued evacuation messages only in English. In Butte, the sheriff's liaison stated that staff members did not issue messages in languages other than English because they were rushed. He acknowledged that having prepared scripts for the translated messages would be beneficial. In October 2019, Butte completed templates in both Spanish and Hmong, the two primary non-English languages in Butte County. Sonoma asserted that it did not issue messages in languages other than English because when the Sonoma Complex Fires began, the emergency coordinator responsible for issuing messages was out of town and issued evacuation warnings remotely without access to translation services or translated messages. However, we question this explanation because Sonoma never issued any alert and warning messages in any language other than English

during the duration of the fire. When counties do not provide translated evacuation warnings, residents who do not speak English may unknowingly remain in unsafe locations or may have to find others to translate the messages for them, delaying their ability to safely evacuate. Since the Sonoma Complex Fires, Sonoma has issued emergency alerts in Spanish.

The Unprecedented Wildfires Challenged the Three Counties' Abilities to Provide Evacuation Assistance

As we discuss in the Introduction, the recent wildfires in the three counties we reviewed were devastating and unprecedented. During these fires, there were significant acts of heroism by firefighters, law enforcement officers, and civilians while fighting the fires and while evacuating residents. The actions of these first responders and others saved lives and prevented each of the fires from being even more deadly and destructive than they ultimately were.

However, first responders in each county also reported to us challenges in obtaining sufficient resources to quickly provide evacuation assistance to some of the people who may have needed such help. During natural disasters, people with disabilities may not be able to evacuate without accessible transportation, such as wheelchair-accessible buses, and first responders in each of the counties told us that accessible transportation options were limited during the responses to those fires. The first responder in Ventura, who is a sergeant in the sheriff's department's tactical response team, stated that such resources were not needed during the Thomas Fire, but had they been needed, it would have been challenging to provide them given the limited resources available at the time. Additionally, we spoke to community organizations that represent or provide services to people with access and functional needs in each county. Some of these organizations in Butte and Sonoma stated that the resources to support evacuating the clients they serve were overwhelmed by the disasters.

First responders in each of the counties told us that accessible transportation options, such as wheelchair-accessible buses, were limited during the responses to the recent wildfires.

We recognize that no amount of planning or preparation will guarantee that a county is fully prepared for a natural disaster. This is particularly true in cases like those we reviewed, in which the natural disasters were historic in size and scope. Moreover, determining whether any additional lives would have been saved during these events if the counties had planned differently or more fully implemented the best practices that we discuss in this report is impossible, and we reach no conclusions to that effect. Further, FEMA acknowledges that using a prescribed planning process cannot guarantee success, although it also notes that inadequate plans and insufficient planning are proven contributors to failure.

Before the recent fires, the three counties did not implement critical best practices to ensure that they were as prepared as possible for evacuating individuals during natural disasters, as Figure 10 shows.

Figure 10
None of the Three Counties Adequately Planned to Assist Evacuees During Natural Disasters



Had an updated all-hazard evacuation plan?

BUTTE	SONOMA	VENTURA
X	X	X

Assessed how many people may need assistance in an evacuation and mapped areas with high percentages of people who may need evacuation assistance?



BUTTE	SONOMA	VENTURA
X	X	X

Prearranged accessible transportation for evacuees?



BUTTE	SONOMA	VENTURA
X	X	X

Source: Evacuation plans and planning documentation at Butte, Sonoma, and Ventura.

The Three Counties Either Lacked or Had Outdated All-Hazard Evacuation Plans

Two of the three counties—Sonoma and Ventura—had not adopted evacuation plans applicable to all types of potential disasters in their areas. FEMA best practices suggest that counties should develop all-hazard evacuation plans that broadly apply to a wide range of emergencies, including different types of natural disasters. FEMA guidance describes several elements that should

be included in these plans, such as traffic control measures, the local jurisdiction's provisions for evacuating individuals with access and functional needs, and processes for tracking children, especially unaccompanied minors. As Figure 10 shows, none of these three counties had updated all-hazard evacuation plans. Butte did have an all-hazard evacuation plan, but it was more than seven years old at the time of the Camp Fire. Further, although Butte's plan states that it is designed to be used for all potential hazards, it is not aligned with all-hazards evacuation planning best practices and does not address how Butte plans to support residents with access and functional needs during an evacuation. Sonoma and Ventura each have hazard-specific plans for tsunamis and flooding, but—in addition to not considering all hazards—these plans also lack strategies for how the counties plan to address residents' access and functional needs during evacuations.

Sonoma's director of emergency management stated that the county is in the process of developing additional evacuation plans; however, he could not explain why Sonoma did not have an all-hazard evacuation plan before the Sonoma Complex Fires because he was not in his position at that time. Nonetheless, he indicated that the county's current strategy for developing such a plan includes adopting specific plans for communities with evacuation challenges. Since the Sonoma Complex Fires, Sonoma has developed a framework for recovery and resiliency that states that it plans to work with community and neighborhood liaisons to identify hazards, risks, and mitigation strategies, including evacuation routes.

Since the Sonoma Complex Fires, Sonoma has developed a framework for recovery and resiliency that states that it plans to work with community and neighborhood liaisons to identify hazards, risks, and mitigation strategies, including evacuation routes.

Conversely, Ventura's staff emergency manager stated that Ventura does not intend to develop an all-hazard evacuation plan because he believes its current dynamic, real-time approach has not hindered its ability to respond to emergencies. However, if an emergency management agency assumes it will be able to respond effectively to all future natural disasters because its previous response efforts were successful, it may not be prepared for events that are larger and more complicated than those it has faced in the past. As an example, Sonoma's after-action report for the Sonoma Complex Fires noted that the county had experienced a large number of natural disasters before the 2017 fires and that much of Sonoma's preparedness efforts had been designed to be prepared for disasters of similar size. Sonoma's report concluded that these past experiences were insufficient in preparing the county for the 2017 fires. Therefore, Ventura should not evaluate its need for changes to its emergency preparedness based solely on the disasters it has already experienced. Rather, it should strive to be as prepared as possible to provide evacuation assistance to those with access and functional needs during a natural disaster.

The Three Counties Had Not Made Arrangements to Improve Their Ability to Provide Evacuation Assistance to All Who Needed It

FEMA and Cal OES guidance both recommend that emergency management agencies prearrange resources for evacuation assistance to help ensure that those resources are available during natural disasters. Cal OES specifically developed a sample agreement for transportation resources. The sample agreement guides local jurisdictions to define important considerations in these agreements, such as who has the authority to activate the agreement, the time frame within which the transportation authority should be able to respond to requests for assistance, and estimates of how many resources the transportation provider can provide. However, none of the three counties had made such prearrangements before the recent fires. Ventura asserted that it had master agreements that would allow it to leverage accessible transportation resources for evacuation assistance for residents during an emergency. However, these agreements often specified that the transportation vendors would furnish bus tokens or passes, and none of them referenced how Ventura might use these agreements during an emergency. Further, even as of the time of this audit, none of the three counties had bolstered their available evacuation resources by establishing prior agreements with transportation entities to provide evacuation assistance during natural disasters. Rather, each has planned that its emergency operations center will locate and request transportation assistance during the emergency, which requires additional time that preplanning these arrangements could reduce.

Best practices recommend that counties include public transit and transportation agencies in their emergency planning efforts.

Best practices recommend that counties include public transit and transportation agencies in their emergency planning efforts. To this end, the California Department of Transportation has published guidance for public transit operators on how to assist local jurisdictions in evacuations during natural disasters, and it recommends that representatives of local transit operators be a part of emergency planning teams and memorialize in writing their agreements with emergency management agencies. First responders in Sonoma and Ventura agreed that having arrangements in place before a disaster strikes would benefit their evacuation efforts. However, the county administrative officer for Butte disputed the necessity of such agreements, stating that Butte's regional transit authority provides resources upon request by emergency management or the sheriff's office, and claiming that because of limited resources locally, Butte depends on the State's mutual aid system for large events. Despite these assertions, because Butte has not conducted demographic assessments to determine how many people within the county may need evacuation assistance during a natural disaster, it cannot know whether the resources that the regional transit authority has available will be sufficient for all who

need assistance. Further, as we indicate earlier, agreements with transit authorities provide other benefits, such as clearly defining who is allowed to activate the agreement. Waiting until a disaster occurs to arrange for that assistance means local jurisdictions risk having difficulty locating and coordinating sufficient evacuation resources, such as local transit operators and accessible vehicles. These difficulties may unnecessarily delay potentially life-saving assistance.

The Three Counties Had Not Fully Assessed How Many People May Need Evacuation Assistance

Finally, the three counties did not leverage all available information to identify the people in their communities who might need evacuation assistance and to address those people's needs in their evacuation plans. As we describe earlier, none of the three counties had followed the emergency planning best practice of conducting demographic assessments of its population. In particular, the counties did not use existing data—available through a variety of public programs—to identify the number and concentrations of people with access and functional needs in their communities or in developing their emergency plans.

Each of the counties has an agency that provides IHSS to aged and disabled people. These agencies maintain lists of people who receive IHSS and who will require assistance during an evacuation.

For example, each of the counties has an agency that provides in-home supportive services (IHSS) to aged and disabled people. These agencies maintain lists of people who receive IHSS and who will require assistance during an evacuation. The managers of the three IHSS agencies stated that when the counties declare local emergencies, county staff members attempt to call people on the lists to determine whether they need evacuation assistance and then the staff members notify law enforcement if so. Although these calls can help a county facilitate evacuation assistance to some people, they are limited to those receiving IHSS. Butte also enables residents with access and functional needs who do not receive IHSS to provide their contact information to the county and indicate that they will need evacuation assistance. Butte stated that it also makes calls to these individuals during a natural disaster. According to a program manager in Butte's department of employment and social services, Butte informs the public about the option to provide their contact information through its website, during social workers' home visits, and during public outreach events.

However, despite the value of IHSS information for planning purposes, neither Butte nor Ventura used this information when creating their emergency plans. Instead, each asserted that it makes use of data on people with certain access and functional needs once a disaster occurs, which deprives emergency responders of the benefits of having this information available beforehand. Further,

emergency managers at Butte and Ventura asserted that emergency planners cannot obtain IHSS lists before a disaster occurs because the lists contain health-related information that is protected by federal and state law. Ventura's chief deputy director of human services explained that the county asks its IHSS clients to sign waivers to allow her agency to notify law enforcement about their location before the county issues a local emergency order. However, she said that based on the county's understanding of state law, she is not permitted to offer information about the location of IHSS clients to first responders until a threat has become impending and urgent.

County agencies could provide general information to emergency planners about IHSS clients—such as the neighborhoods that have high concentrations of people who need assistance—without violating state law's restrictions on information sharing.

We are concerned that by not sharing this information before disasters occur, the two counties are missing an opportunity to better prepare to provide evacuation assistance. We believe that county agencies could provide general information to emergency planners about IHSS clients—such as the neighborhoods that have high concentrations of people who need assistance—without violating state law's restrictions on information sharing. By not making use of existing county data when planning for emergencies, the counties are missing an opportunity to expedite evacuation assistance when natural disasters occur.

Sonoma also did not use available data to develop all of its emergency plans in the past, but unlike Butte and Ventura, Sonoma has recently leveraged available data to inform a new plan. Its human services department has formally committed to providing its department of emergency management with a copy of its updated IHSS client list each week, which allows responders to understand the level of response an IHSS client may need in an emergency situation. Sonoma has used these data in part to develop a new plan that focuses on responding to decisions by utilities to interrupt service in an attempt to prevent wildfires. This plan relies in part on IHSS data to assess the general volume of individuals in the community who may be dependent on electricity to address medical conditions.

Such a practice shows the value of this information for emergency preparedness and planning and how not leveraging these data in other planning efforts can hinder the effectiveness of those plans. The chair of the Sonoma access and functional needs committee—who also manages the IHSS program—agreed that detailed assessments of its access and functional needs residents would help the county to be better prepared to meet a variety of needs. However, he did not know why Sonoma had not used such assessments in the development of other emergency plans.

The Three Counties Had Challenges Obtaining Certain Resources to Support People With Access and Functional Needs in Emergency Shelters

When counties conduct evacuations, they may also open emergency shelters where evacuees can stay before, during, and after a disaster. These shelters provide indoor space, food, water, and sanitation to maintain the evacuees' basic well-being until they can return home. Under the Americans with Disabilities Act, emergency programs provided by public entities, including emergency shelter programs, must be accessible to people with disabilities. As the examples in the text box show, this includes ensuring that shelters can meet the basic human needs of people with disabilities, including the ability to maneuver inside the shelter, sleep, use the restroom, and shower. Best practices suggest that shelter staff should also be able to provide first aid, medicine, and medical equipment, such as wheelchairs, canes, and oxygen tanks. People who evacuate may leave behind this equipment, but without it, they may not be able to function independently or even survive.

Key Resources for Ensuring That Shelters Are Accessible to People With Disabilities

- Accessible parking
- Pathways wide enough for wheelchairs
- Accessible beds or cots
- Accessible toilets, showers, and hand-washing stations
- Braille and navigable pathways for people who are blind
- Teletypewriters (TTY) for people who are deaf

Source: U.S. Department of Justice.

It would be unreasonable to expect that counties could meet all of the needs of every evacuee immediately upon arrival at a shelter during a natural disaster, especially during unprecedented disasters like the three recent wildfires that we reviewed, when thousands of people sought shelter. However, adherence to best practices regarding establishing and operating emergency shelters enables counties to be better positioned to quickly meet the needs of evacuees, including those with access and functional needs. Despite that benefit, the counties we reviewed did not follow key best practices—including having updated sheltering plans with strategies for meeting access and functional needs—which may have impaired their ability to promptly obtain certain resources to support people with access and functional needs in shelters during the wildfires we reviewed.

Each county retained only limited documentation of the conditions in the shelters they established during the recent natural disasters we reviewed. Therefore, our analysis was limited to what we could determine from reviewing logs of resource requests and available payment or billing records, examining the counties' after-action reports containing county staff's review of the effectiveness of the counties' emergency responses, and speaking with staff who supported the shelters during the disaster responses. Managers who oversaw the shelters in Butte and Sonoma stated that the size and scope of the wildfires created challenges in promptly

During the recent natural disasters, each county had difficulty obtaining at least one key resource necessary to make shelters fully accessible to people with disabilities.

obtaining some supplies, including accessible cots, toilets, and showers. The records and statements we reviewed indicate that each county had difficulty obtaining at least one key resource necessary to make shelters fully accessible to people with disabilities. Specifically, Butte had difficulty obtaining accessible showers for its shelters. Butte's director of employment and social services said that during the Camp Fire, she requested assistance from Cal OES in obtaining showers but believes they took several days to arrive. She stated that to compensate for the lack of showers, Butte offered to transport people with disabilities to other shelter locations so they could shower. Similarly, documentation from Sonoma indicates that it had challenges obtaining sufficient accessible showers, and documentation from Ventura shows that it struggled to obtain a sufficient number of accessible cots.

Although the counties ultimately received some of these resources, delays in obtaining them can create significant discomfort for people with access and functional needs. For example, without an accessible cot, people with disabilities may not be able to lie down independently or at all. Similarly, the lack of accessible showers can result in people with disabilities being unable to shower without assistance. Staff at each of the counties acknowledged they had problems promptly obtaining certain supplies, and they stated that they did what they could to make people in the shelters comfortable while they waited for delivery of those supplies.

The Counties Did Not Assess What Their Communities Would Need in Shelters

As we discuss earlier, best practices state that counties should conduct demographic assessments to understand what needs the people in their communities may have during an emergency. As part of those assessments, best practices indicate that in shelter planning counties should be prepared to meet access and functional needs. According to FEMA, as a general rule, about 10 to 15 percent of a population will require housing in a public shelter after an evacuation. However, it also states that the demographics of a population can have a profound effect on shelter operations. FEMA recommends that in planning for shelter capacity, counties know the demographic profiles of their communities and understand the type of assistance that their various populations may require during a disaster.

However, none of the three counties performed such demographic assessments. Emergency managers in Butte and Sonoma instead used general estimates for the percentage of evacuees who would require shelter and the percentage who would have access and functional needs. For example, Sonoma's plan stated that, historically, in most events fewer than 10 percent of evacuees seek

shelter and that between 20 and 25 percent of shelter occupants may have access and functional needs. Ventura's chief deputy director of the human services agency (chief deputy director) stated that before the Thomas fire, the county had not conducted an assessment of countywide shelter capacity. She indicated that the Red Cross was the county's local government partner and the primary organization responsible for operating sheltering facilities, including identifying and developing shelter locations. However, without a capacity assessment, the county would not be able to determine whether it had adequate shelter space for its residents during a disaster.

The counties' approaches were challenged during the recent disasters. According to the chair of Sonoma's access and functional needs committee, during the Sonoma Complex Fires, the number of people with access and functional needs in shelters exceeded the county's original estimates and overwhelmed its capabilities. Similarly, the chief deputy director at Ventura stated that the Thomas Fire demonstrated that if a large-scale disaster affects the county again, it may not be able to adequately house all residents seeking shelter within its current list of shelters. She stated that Ventura was working with cities in the county to identify the current capacity of all shelters and that the county needs to be prepared to establish shelters on its own. Similarly, Butte's director of employment and social services indicated that the size and scope of the Camp Fire created challenges in promptly procuring an adequate number of accessible cots, toilets, and showers for all those in the shelters who needed them.

During the Sonoma Complex Fires, the number of people with access and functional needs in shelters exceeded the county's original estimates and overwhelmed its capabilities.

The Counties Did Not Adequately Prearrange Key Resources for Shelters

After a county identifies the resources it needs to make its shelters accessible, best practices recommend that it make arrangements with private providers to have those resources promptly available during a natural disaster. However, none of the three counties had conducted sufficient assessments of their resource needs or adequately prearranged agreements for obtaining equipment and supplies to ensure the accessibility of its shelters. Specifically, neither Sonoma nor Ventura had adequate prearranged agreements in place to acquire key sheltering resources. For example, Sonoma had an agreement for obtaining bulk pharmaceuticals and accessible toilets, but according to its procurement general services manager, it did not have agreements for obtaining accessible cots, showers, or durable medical equipment. The staff emergency manager at Ventura asserted that Ventura does have provider agreements for sheltering supplies. However, we reviewed the agreements that he provided and found that Ventura did not have agreements for key sheltering supplies, including accessible

cots and showers. Ventura had an agreement for accessible toilets, but the agreement stated that it was only for scheduled events or events longer than 30 days, making it unlikely that Ventura could use the agreement during a disaster. Ventura's chief deputy director who oversees shelter operations stated that the county is working on obtaining a variety of agreements for sheltering supplies. She further stated that the county plans to conduct an equipment and supply assessment so that it can build supply portfolios to have a clear understanding of what equipment and supplies are located within the cities to increase efficiency of delivery and reduce duplicate purchases.

Staff at Sonoma and Ventura explained that during past disasters, the counties relied on the Red Cross as the primary provider to open, manage, and supply their evacuation shelters and that in the past, this approach had met the counties' needs. The Red Cross has a federal charter to provide relief across the country during natural disasters, including through the support of emergency shelters. However, FEMA's guidance on managing shelters states that local emergency managers and shelter planners—and not other entities—are responsible for ensuring that sheltering services and facilities are accessible. Further, if an emergency management agency relies solely on one source to provide essential emergency services, it risks discovering during a crisis that that agency will not be able to provide services. Because the Red Cross provides support during natural disasters throughout the nation, it may not always be able to immediately fully support local emergency shelters. For example, during the Thomas Fire in Ventura, the Red Cross was also operating shelters in response to a hurricane in Texas.

If an emergency management agency relies solely on one source to provide essential emergency services, it risks discovering during a crisis that that agency will not be able to provide services.

Among the three counties, Butte had prearranged the most agreements. Specifically, it had memorandums of understanding with more than 25 local health care providers to provide accessible cots, medical personnel, and equipment during emergencies, and it also had separate agreements for accessible toilets. Staff from Butte stated that these agreements allowed the county to more quickly obtain resources to accommodate people with access and functional needs following the Camp Fire. However, as of the time of our review, Butte still did not have an agreement in place to obtain accessible showers, which the county struggled to obtain in the aftermath of the fire. The director of employment and social services stated that there is a general shortage of accessible showers in the State but said that if there were a greater supply and if Butte were able to obtain such an agreement, it would have been able to procure those resources faster during a disaster event. According to the deputy director of Butte's general services department, Butte's regional transit authority was in the process of applying for a grant for a trailer with an accessible shower, which the transit authority

was going to allow the county to use; however, because of a change in management staff, the grant application was not completed and the transit authority did not go forward with the grant.

Although each of the counties has taken some steps to improve their sheltering processes, none has fully implemented best practices for sheltering. Both Sonoma and Ventura have draft sheltering plans. Additionally, Sonoma's emergency coordinator stated that Sonoma had recently obtained grant funding to establish five sheltering supply trailers, which collectively will contain equipment and supplies for hundreds of individuals with access and functional needs, such as portable accessible showers. Sonoma's access and functional needs committee has also developed a list of shelter supplies that Sonoma should maintain. Both Sonoma and Ventura trained some of their staff to assess shelter residents during emergencies to identify unmet needs and request resources to meet them. Butte's director of employment and social services said she is working on developing additional and updated agreements for shelter resources and on obtaining updated information on the accessibility of the county's shelter locations to people with disabilities. Although the counties' efforts will likely improve their ability to operate shelters, until the counties more fully implement best practices related to sheltering, their ability to most effectively meet access and functional needs in those shelters may be hampered.

The Counties Had Not Adequately Planned To Establish Local Assistance Centers

Counties can establish local assistance centers following natural disasters that enable individuals and families to easily access available disaster assistance programs and services.

In addition to shelters, counties can establish local assistance centers following natural disasters that enable individuals and families to easily access available disaster assistance programs and services. These services may include help requesting important documents, such as birth or marriage certificates, and help obtaining nutritional assistance, housing, and other necessities. The state and federal governments offer a variety of services to those affected by natural disasters—we list examples in Appendix A. Disaster survivors can access those services at a local assistance center, which is usually a single facility where they can meet with representatives from different federal, state, and local agencies. It is important that counties establish these centers as quickly as possible following disasters so that residents can begin receiving the assistance they need. Further, Cal OES guidance indicates several steps local jurisdictions should take to ensure that people with access and functional needs are aware of and can access the services at local assistance centers.

Before their recent wildfires, neither Butte nor Ventura had plans for establishing local assistance centers.

The counties' approaches to planning to operate local assistance centers varied. For example, before their recent wildfires, neither Butte nor Ventura had plans for establishing local assistance centers. Butte's director of employment and social services stated that Butte instead used Cal OES guidelines for establishing local assistance centers as its plan. In contrast, Sonoma had a plan that it called its *local assistance center handbook*, but the handbook did not contain adequate measures for ensuring that local assistance centers would be accessible to people with access and functional needs. For example, contrary to best practice, the handbook does not direct Sonoma's public information officer to notify the public about the availability of the local assistance center in languages other than English, nor does it direct the staff who establish the assistance center to consider proximity to public transportation—a consideration Cal OES advises local jurisdictions to make and which could be consequential for those who lack transportation. Despite having the handbook, the individuals tasked with opening the local assistance center did not use it because an emergency coordinator at Sonoma did not give it to them until after they had opened the center. Instead, those individuals used guidance from Cal OES to operate the local assistance center.

The planning and preparedness deficiencies at Sonoma and Ventura may have contributed to challenges that those counties faced in ensuring that sufficient resources were available to assist people with limited English proficiency at the local assistance centers they established following the recent wildfires. Ventura's human services agency supported the local assistance center, and in its after-action review of the local assistance center, it noted that bilingual ambassadors was an area that could be improved. The chief deputy director explained that this observation in the after-action report meant that its local assistance center needed more translation services for languages other than English. In a related issue, we reviewed materials that Sonoma provided to survivors who attended its local assistance center, and we found that Sonoma did not provide the materials in languages other than English, and the manager who oversaw the local assistance center confirmed that it had not done so. He also stated that when county staff recognized that the local assistance center needed translated signs, he put up handwritten signs.

Butte's approach to opening a local assistance center during the Camp Fire differed from Sonoma's and Ventura's. According to Butte's director of employment and social services, the county chose to open a disaster recovery center, in partnership with FEMA, which offers the same services and resources as a local assistance center. She explained that this meant FEMA was responsible for procuring the space for the center and providing equipment and supplies and that the county worked as a support partner.

Local assistance centers that are not fully accessible to people with access and functional needs can impede those people's ability to take advantage of available resources for helping them recover from natural disasters. Staff at all three counties acknowledged the issues we identified and stated that they will revise their plans or take other steps to prevent similar problems in the future. In late September 2019, Sonoma provided a revised local assistance handbook that contains specific direction for ensuring that the centers it establishes will be accessible to people with access and functional needs, including direction to provide multilingual local assistance center signs and translation services for people who are deaf and people who do not speak English. Additionally, in response to flooding in early 2019, Sonoma opened a local assistance center where it posted signs and provided materials in Spanish. By revising their plans for establishing local assistance centers to ensure that they are accessible to people with access and functional needs, the counties can better ensure that people with those needs can benefit from the disaster recovery services there.

The State Must Take a More Proactive Role in Ensuring That Local Jurisdictions Adequately Plan to Protect Their Communities During Natural Disasters

As we detail throughout this chapter, the counties we reviewed have significant gaps in their preparedness to protect and assist vulnerable populations in the event of natural disasters. The inadequate planning for individuals with access and functional needs that we found at Butte, Sonoma, and Ventura is consistent with our country's history of natural disasters disproportionately affecting those individuals. Further, some of the deficiencies that we found at the counties—such as not having evacuation plans or not issuing effective alert and warning messages—affect all of their residents, not just those with access and functional needs. California faces a future that experts predict will include more frequent natural disasters. At the same time, demographic changes in the State have resulted in an increased population of elderly residents. These factors indicate that the potential effects of being underprepared for natural disasters are growing. Therefore, it is critical that the State do more to ensure that local jurisdictions are as prepared as possible.

It is critical that the State do more to ensure that local jurisdictions are as prepared as possible.

As we describe in the Introduction, the State recently invested $50 million to build resiliency in vulnerable communities. It awarded about $15.5 million of the funding to community organizations and cities and counties to help those entities develop more robust citizen emergency response efforts. However, none of the grant awards have directly funded local jurisdictions' efforts to develop emergency plans that ensure that they meet their communities' access and functional needs or that they involve representatives of groups with access and functional needs in their emergency planning processes.

Although recent changes to state law will likely improve planning efforts, the changes do not provide accountability for ensuring local jurisdictions develop effective emergency plans. Effective January 2017, state law requires cities and counties, upon the next update to their emergency plans, to integrate access and functional needs into the plans by addressing, at a minimum, how individuals with access and functional needs are served by emergency communications, emergency evacuation, and emergency sheltering. Further, recent changes to state law, effective January 2020, require cities and counties to include representatives of people with access and functional needs during the next update to their emergency plans to ensure that they integrate those needs into their plans. Another change, also effective January 2020, requires cities and counties to integrate cultural competence into their plans in the areas of emergency communications and evacuations, among others. However, the State continues to have a gap in accountability for ensuring that local jurisdictions engage in effective emergency planning. Unlike in California, state laws in Florida and Texas require each state's emergency management division to establish standards for and to periodically review local jurisdictions' emergency management plans. A similar requirement in California could direct Cal OES to review and provide feedback to local emergency management agencies on the extent to which their plans effectively incorporate emergency management best practices, especially related to protecting and assisting people with access and functional needs.

If Cal OES were to report the results of those reviews publicly, it would provide public accountability for local emergency management agencies. As the State's leader in emergency management, Cal OES is best positioned to provide the necessary expertise to conduct these reviews. It is also the appropriate entity to assist local jurisdictions in bringing their plans into alignment with best practices to ensure that they are best prepared to protect their communities.

As the State's leader in emergency management, Cal OES is best positioned to provide the necessary expertise to conduct reviews of local jurisdictions' emergency management plans.

The counties and Cal OES varied in their perspective about Cal OES oversight. Butte was agreeable to Cal OES conducting reviews of emergency plans; however, its county administrative officer expressed doubt that the county could modify its plans to meet the standards that Cal OES sets for these reviews without funding from the State. Similarly, Sonoma indicated that in order to meet the standards that Cal OES sets, the county would need funding from the State. Ventura's staff emergency manager stated that it would be helpful to have Cal OES review the county's emergency operations plan but not its supporting plans because there are far too many and he would not want such a review to inhibit the county's progress. Cal OES's acting deputy director of response operations shared that it already reviews emergency plans when counties and other local jurisdictions choose to share their plans with Cal OES's regional offices. He explained that the review

is a crosswalk to ensure that all required structural elements of an effective emergency operations plan are incorporated in the counties' and local jurisdictions' plans. We reviewed the crosswalk that Cal OES uses to review local jurisdictions' plans and found that it does not incorporate a review of the extent that local jurisdictions incorporate best practices; rather, it reviews the extent to which the plan implements the State's emergency management system. The acting deputy director further noted that Cal OES was not currently staffed to perform statewide plan reviews, so any changes to its responsibility would also need to be accompanied by additional resources.

Recommendations

Legislature

To ensure that local jurisdictions develop emergency plans that include adequate measures to protect and assist all people in their communities, including those with access and functional needs, the Legislature should require Cal OES to do the following:

- Review each county's emergency plans to determine whether the plans are consistent with FEMA best practices, including those practices that relate to adequately addressing access and functional needs. The Legislature should require Cal OES to review 10 county plans each year, prioritizing counties that we included as part of this audit and that are at high risk for natural disasters.
- Report the results of its plan reviews to the Legislature and on its website at least once every year.
- Provide technical assistance to counties in developing and revising their emergency plans to address the issues that Cal OES identifies in its review.
- Include representatives of people with a variety of access and functional needs in its review of county emergency plans.

Counties

To best prepare to protect and care for people with access and functional needs, the counties should revise their emergency plans by following the best practices that Figure 11 identifies. The counties should begin implementing these practices as soon as possible. By no later than March 2020, the counties should develop a schedule for completing updates to their respective emergency plans.

Figure 11
Emergency Planning Best Practices

To improve their ability to protect people with access and functional needs during natural disasters, local jurisdictions should implement the following best practices:



EMERGENCY PLAN DEVELOPMENT

- ☐ Use a diverse planning team, including people with a variety of access and functional needs and community organizations that support them.
- ☐ Conduct demographic assessments to identify how many people have access and functional needs and what their needs are.
- ☐ Update emergency plans frequently, including after major disasters and changes in operational resources.



ALERT AND WARNING

- ☐ Develop alert and warning plans that contain strategies to reach all people, including people who have access and functional needs, and ensure that all applicable methods are used to reach individuals.
- ☐ Create a library of pre-scripted messages for each potential hazard that contain the recommended elements for effective messages and that are translated into the languages most commonly used in the community.



EVACUATION

- ☐ Develop all-hazard evacuation plans, including strategies for providing evacuation assistance to people with access and functional needs.
- ☐ Assess the number and locations of people who may need evacuation assistance. Inventory the local jurisdiction's resources to determine its capability to provide that assistance.
- ☐ Establish agreements with local transit agencies and other sources of accessible transportation to provide evacuation support.



SHELTERING

- ☐ Develop sheltering plans that include strategies for ensuring that shelters are accessible to people with access and functional needs.
- ☐ Assess how many people may seek shelter during natural disasters, how many of them may have access and functional needs, and what resources the local jurisdiction will need to support them in shelters.
- ☐ Establish agreements with suppliers for necessary equipment and resources to support shelter residents with access and functional needs.



LOCAL ASSISTANCE CENTERS

- ☐ Develop a plan to ensure that local assistance centers are accessible to people with access and functional needs, including communication services for those with limited English proficiency.

Source: Guidance from FEMA, Cal OES, and other governmental organizations.

To ensure that they maintain updated emergency plans that are consistent with current best practices, the counties should adopt ordinances establishing requirements for the frequency with which they must update their emergency plans and should set that frequency at no greater than five years.

To ensure that their emergency planning efforts more fully account for people with access and functional needs in the future, the counties should adopt county ordinances that require their county emergency managers to do the following during each update to their emergency plans:

- When planning to protect people with access and functional needs, adhere to the best practices and guidance that FEMA, Cal OES, and other relevant authorities have issued.
- Report publicly to their boards of supervisors during emergency planning about the steps they have taken to address access and functional needs.
- Consult periodically with a committee of community groups that represent people with a variety of access and functional needs. Further, the counties should require that representatives of the community group committees present to the boards of supervisors their review of the adequacy of the emergency plans.

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Chapter 2

CAL OES HAS NOT PROVIDED LOCAL JURISDICTIONS WITH CRITICAL GUIDANCE ON PROTECTING VULNERABLE POPULATIONS

Cal OES's mission is to protect lives and property, build the State's emergency response capabilities, and support communities for a resilient California. As a part of that mission, we expected that Cal OES would assist local jurisdictions in developing emergency plans that include effective strategies for protecting people with access and functional needs during natural disasters. However, Cal OES has not taken several important steps to provide that support. For example, it has not given local jurisdictions required guidance related to identifying people with access and functional needs and to evacuating these populations during natural disasters, despite state laws requiring it to do so. Further, it has not modeled best practices by involving people with access and functional needs in the development of key planning and guidance documents. Finally, Cal OES has not created and disseminated timely after-action reports that would help local jurisdictions learn from others' successes and mistakes during the response to natural disasters. Cal OES's failures to provide critical guidance to local jurisdictions have impeded its ability to fulfill its mission to support local jurisdictions.

Cal OES Has Not Adequately Supported Local Jurisdictions in Their Planning to Assist People With Access and Functional Needs During Natural Disasters

State law makes Cal OES responsible for the State's emergency and disaster response services, including activities necessary to prevent and respond to the effects of disasters on people. Because of this assigned responsibility, we expected that Cal OES would be effectively supporting local jurisdictions in planning to protect the significant percentage of the population who are likely to have access or functional needs during an emergency. Specifically, we expected it to have provided resources to help local jurisdictions in planning, made those resources readily available, and involved representatives of people with access and functional needs in developing its guidance and in maintaining the State's emergency management system. However, as Figure 12 shows, Cal OES has not adequately done so. Because of these deficiencies, Cal OES has not done enough to fulfill its mission to protect lives and support communities' abilities to withstand and recover from natural disasters.

Figure 12
Cal OES Has Not Taken Key Steps to Support Local Jurisdictions in Planning to Meet Access and Functional Needs During Natural Disasters



Source: FEMA best practices, state law, charters and meeting documentation for the Cal OES committees that develop and approve guidance, Cal OES planning guidance, the Cal OES website, and interviews with staff at Cal OES.

Despite the Requirements in State Law, Cal OES Has Not Provided Critical Guidance to Local Jurisdictions

Cal OES has not responded effectively to changes to state law that require it to provide support to local jurisdictions. In 2013, the Legislature amended state law to require Cal OES to update the state plan to include proposed best practices for local governments and nongovernmental entities in mobilizing and evacuating people with disabilities and others with access and functional needs. The amendment came because the Legislature found that too little of the state plan was dedicated to senior citizens and the needs of people with disabilities. However, Cal OES has not made these changes, and the state plan still contains no guidance on evacuating people with access and functional needs, nor does it direct local jurisdictions to any such existing guidance or best practices.

The manager of the unit at Cal OES responsible for updating the state plan asserted that Cal OES did not include these best practices because the state plan is a high-level framework meant to support statewide operations during an emergency. She explained that Cal OES decided to post the relevant evacuation best practices on its Office of Access and Functional Needs website instead. However, Cal OES did not notify the public or mention in the State plan that it decided to post these best practices elsewhere. Therefore, local jurisdictions that reviewed the State plan to find these best practices would have been unable to do so.

Further, although the Office of Access and Functional Needs' website does contain some guidance for mobilizing and evacuating individuals with access and functional needs, it does not direct local entities to perform the best practice of identifying their populations who might require evacuation assistance during an emergency. As we describe in the previous chapter, not identifying in advance which people within a community may need additional help in evacuating may result in an ineffective response during an emergency.

Cal OES has not fully complied with a state law related to the establishment of disaster registries, despite the fact that this law has been in effect for nearly three decades.

In addition, Cal OES has not fully complied with a state law related to the establishment of disaster registries, despite the fact that this law has been in effect for nearly three decades. Disaster registry programs are voluntary listings for which people with access and functional needs can sign up to be added to a list that first responders and others may use to provide alert and warning messages and to locate people to verify that they have evacuated. Since 1991 state law has required Cal OES to develop model guidelines for local jurisdictions that plan to develop disaster registry programs. Although Cal OES has released some guidance related to disaster registry programs, that guidance does not include all required elements. Specifically, state law directs Cal OES to publish guidance that includes recommendations for addressing known problems with the use of disaster registries, such as maintaining privacy for the people on the registry, as well as clarifying that the intent of the registry is not to provide immediate assistance during an emergency and that individuals must be prepared to be self-sufficient. However, the guidance that Cal OES has issued states that registries have proven unworkable, generally emphasizes concerns about registries, does not contain all of the information that state law requires, and provides little additional advice about how a local jurisdiction should manage a registry.

Cal OES's deputy director of planning, preparedness, and prevention acknowledged that Cal OES has not issued model guidelines in accordance with the law. She stated that the agency has not done so because staff at Cal OES consulted with local governments and stakeholders and determined that registries

present significant challenges related to privacy and maintenance. However, by disregarding registries rather than providing the required guidelines, Cal OES has failed to follow state law and has not issued guidance that could benefit local jurisdictions that do choose to implement disaster registries. Of the three counties we reviewed as part of this audit, only Butte maintained such a registry. To the extent that Butte or any other county could have benefited from guidance on registry management, Cal OES has failed to fulfill its mission of supporting communities through collaboration with local jurisdictions.

Finally, Cal OES has not adequately supported local jurisdictions in ensuring that they can quickly issue translated alert and warning messages during emergencies. Effective January 2019, state law requires Cal OES to develop alert and warning guidance and to create a library of translated emergency notifications that it must develop after taking into consideration the two most commonly spoken languages in California other than English. According to census data, those languages are Spanish and Chinese languages, including Mandarin and Cantonese. The law also requires Cal OES to produce a translation style guide that includes a glossary of translated standard abbreviations used in emergency notifications (translation style guide). Cal OES issued alert and warning guidance in March 2019 and included examples of alert and warning messages in English as part of that guidance. The director of emergency management at Sonoma told us that he had expected Cal OES to provide translated message templates when it released this alert and warning guidance. However, at the time we began this audit, Cal OES had not yet developed the templates and provided no clear plan for complying with this provision of state law.

After we repeatedly asked Cal OES about its plan for developing the templates and translation style guide, Cal OES informed us at the end of September 2019 that it had completed a set of translated messages in Spanish, and in early October, it published translated messages in 17 other languages. Although Cal OES posted these messages and indicated that they were sample messages for use by local jurisdictions, they are marked by deficiencies. Most importantly, the translated messages will not be helpful to emergency managers who do not already speak these languages because Cal OES has not provided a crosswalk of the English and translated versions of the templates. As a result, the guidance provides no indication of what the messages are about for someone who does not speak, for instance, Chinese or Armenian, which greatly increases the risk that local jurisdictions will not use the templates or will use the wrong message template in an emergency situation.

Although Cal OES posted translated messages in 18 languages and indicated that they were sample messages for use by local jurisdictions, they are marked by deficiencies.

Further, the sample messages that Cal OES developed are not templates that local jurisdictions can use to send messages specific to their circumstances. Rather, these sample messages are written and translated for very specific situations. For example, all three of Cal OES's sample translated shelter-in-place messages specify that residents must remain inside due to a hazardous materials release. Accordingly, without access to their own translation services, local jurisdictions would not be able to use this message to warn residents to shelter in place because of other hazards, such as flooding or an earthquake. Cal OES's translated messages stand in contrast to the templates Ventura developed: a variety of message templates in both English and Spanish for many potential hazards such as brush fires, smoke, and tsunamis.

Cal OES claimed it had also developed the translation style guide the law requires, but there are problems with the guide. In October, when it released the translated sample messages, Cal OES also released a foreign language style guide in English with glossaries of terms in English, Spanish, and Vietnamese. However, the terms that Cal OES translated do not concern specific threats that emergency managers could use to replace the sample message content. For example, as we discuss above, the sample messages included shelter-in-place orders specific to a hazardous materials release; therefore, if Cal OES had provided translated terms for other potential threats, such as wildfires, earthquakes, or floods, emergency managers could use these translations to amend the sample messages to fit their own circumstances. However, Cal OES did not include in its glossaries the translations for the words for wildfire, brush fire, earthquake, or flood. Rather, the glossaries of terms focuses predominantly on emergency management terminology—such as incident command system, mutual-aid agreement, and alert origination tool—and provides translations of those terms and their definitions. Finally, to the extent that Cal OES included useful terms in this style guide, it has still only provided translations in Spanish and Vietnamese—leaving untranslated the second most prevalent languages, Mandarin and Cantonese, and other languages commonly spoken in the State. These observations cause us to question the value of the glossaries to emergency managers who would attempt to use them to assist in issuing important emergency notifications.

If Cal OES had provided translated terms for other potential threats, such as wildfires, earthquakes, or floods, emergency managers could use these translations to amend the sample messages to fit their own circumstances.

Cal OES disagreed with our conclusion that it has not adequately supported local jurisdictions in the development of emergency plans that assist people with access and functional needs because it has not produced required guidance documents and tools. Staff at Cal OES pointed to other guidance it has produced to support local jurisdictions. We agree that the guidance that Cal OES has developed—such as the training course we discuss in the Introduction or the map of access and functional needs resources that it features on its website—can be useful as local jurisdictions

enhance their planning for people with access and functional needs. However, the guidance we focused on during our review is important and required by state law. As we indicate in the Introduction and throughout Chapter 1, the areas of evacuation and alert and warning are of critical importance for all residents, especially those with access and functional needs who are more likely to need additional assistance or alternate methods of communication. Therefore, the lack of adequate guidance in these key areas is a critical deficiency in Cal OES's leadership. As a result of this deficiency, local jurisdictions with primary responsibility for responding to emergency situations are left without key guidance that the Legislature and the Governor intended to be available to assist them in protecting lives during emergencies.

Cal OES Has Not Ensured That Local Jurisdictions Can Locate Its Guidance Regarding Access and Functional Needs

Locating any specific guidance on Cal OES's library web page is challenging because it consists of a list of almost 250 links to different websites and documents.

Cal OES has developed some guidance and tools for local jurisdictions to use in their emergency planning, including their planning to meet access and functional needs; however, it has not made those resources easily available to the local jurisdictions. Cal OES's website includes a page that it refers to as its *access and functional needs library*. However, locating any specific guidance on the library page is challenging because it consists of a list of almost 250 links to different websites and documents. Many of the links have vague names—such as "Feeling Safe, Being Safe" and "Show Me Communication Board"—and no descriptions accompany the links explaining the content visitors should expect to find. Additionally, Cal OES does not indicate which guidance is most valuable for local jurisdictions, so they must sort through less relevant guidance, such as guidance directed at hospitals or polling places, to find the information they need.

The chief of Cal OES's Office of Access and Functional Needs (chief) acknowledged that the access and functional needs library could be improved so that local jurisdictions can more easily navigate it. He stated that Cal OES would seek a contract to restructure and improve the webpage, but he also noted that it has not done so because of resource limitations. The chief further noted that he conducts outreach events throughout the State to provide guidance to local jurisdictions and that no one has complained to him about the access and functional needs library being inoperable. Nonetheless, until Cal OES improves the main online resource it provides, local jurisdictions attempting to use the library will likely face challenges in locating the information that would be most useful to them. This lack of organization is particularly detrimental to jurisdictions with fewer resources and less time to devote to emergency planning.

Cal OES Has Not Modeled Best Practices by Including Individuals With Access and Functional Needs When Developing Guidance

As it provides assistance to local jurisdictions in effectively planning for emergencies, Cal OES has not followed a critical best practice: involving individuals with access and functional needs. As Chapter 1 describes, FEMA and other organizations state that to ensure that emergency plans adequately address access and functional needs, emergency planners should include individuals with such needs or their representatives in the emergency planning effort. In addition, state law requires that to the extent practicable Cal OES include representatives of people with specific types of disabilities on the committees it uses to issue guidance to local jurisdictions and to develop and approve the State's system for emergency management. As of July 2019, Cal OES had seven such committees, including a committee for developing alert and warning guidance and another for improving Cal OES's process for documenting in after-action reports the lessons learned during natural disasters. However, Cal OES has not adequately involved people with access and functional needs on any of these committees.

The documentation that Cal OES provided to us shows that rather than involving a diverse group of people with access and functional needs, it placed the same individual—the chief of its Office of Access and Functional Needs—on six of the seven committees (the charter for the final committee does not list an access and functional needs representative among the committee membership). Although the chief is Cal OES's subject matter expert regarding access and functional needs, he is not representative of all access and functional needs populations. As we previously discuss, *access and functional needs* encompasses many needs or challenges that individuals may have. Emergency planners must plan to meet each of these varying needs or challenges, and people who have these needs are best positioned to provide suggestions on how to address them. Despite the subject matter expertise that the chief possesses, he cannot provide the same depth of insight on specific access or functional needs as people with those needs or their representatives can provide.

The chief agreed that having multiple subject matter experts on access and functional needs would be beneficial and that planning is better when it includes a broader diversity of perspectives. According to the chief, the representation of access and functional needs on these committees was negatively affected when the committees began meeting less regularly because of more frequent emergencies that required Cal OES's attention and involvement. However, Cal OES did not include these representatives on the rosters for any of its more newly formed committees, making us question whether it has made a sufficient effort to include

The chief agreed that having multiple subject matter experts on access and functional needs would be beneficial and that planning is better when it includes a broader diversity of perspectives.

representatives with access and functional needs. For example, when it proposed members for the committee it created to develop the alert and warning guidance it published in March 2019, Cal OES did not include representatives of people with access and functional needs other than the chief. The chief noted the impracticality of ensuring that representatives of every possible access and functional need were included on every Cal OES committee and believed that effective representation of needs can happen through a smaller number of individuals. That perspective notwithstanding, state law is clear that Cal OES should strive to include persons with specific disabilities on these committees, and we believe that more full incorporation of the perspectives of individuals with access or functional needs would align Cal OES with best practices.

The inadequate representation of individuals with access and functional needs on Cal OES's alert and warning committee may have contributed to gaps we observed in the guidance that the committee developed.

Given that communication is one of the key areas of emergency management requiring consideration of access and functional needs, the fact that Cal OES did not include a diverse set of individuals with such needs when developing its alert and warning guidance was a significant shortcoming. In fact, the inadequate representation of individuals with access and functional needs on Cal OES's alert and warning committee may have contributed to gaps we observed in the guidance that the committee developed. Cal OES issued the alert and warning guidelines after a change to state law that went into effect in January 2019. That change required Cal OES to develop guidelines for effectively notifying people with access and functional needs of emergencies. Such guidelines would reasonably address methods of alerting people who may, for example, be deaf, be blind, or have developmental disabilities. Although Cal OES's guidelines encourage local jurisdictions to make alert and warning messages accessible to people with those needs, they do not include strategies for doing so and instead list general considerations that jurisdictions should make. Had the committee included a diverse set of individuals with access and functional needs, those individuals could have provided perspective and insight on specific practices for effectively communicating emergency messages.

Cal OES's failure to ensure the diversity of its planning groups may have a detrimental effect on local jurisdictions. As the State's leader in emergency management, it is critically important that Cal OES set the tone for local jurisdictions by following emergency planning best practices, including those related to supporting individuals with access and functional needs. Individuals from local jurisdictions serve on some of Cal OES's committees and can therefore observe the extent to which Cal OES involves representatives of people with access and functional needs in these committees. When Cal OES does not include diverse representation, the risk is higher that local jurisdictions will not believe that the practice is worthwhile for their own planning efforts. Further, local jurisdictions should be

able to rely on the guidance that Cal OES provides regarding what to include in their emergency plans. If Cal OES's guidance does not fully address access and functional needs, the local jurisdictions' plans—like those in the three counties we reviewed—are also less likely to do so.

Cal OES Has Not Used After-Action Reports to Share Lessons Learned From Recent Disasters, Even Though Doing So Could Aid Local Jurisdictions' Planning Efforts

Cal OES is uniquely positioned to observe, collect, and disseminate information about lessons learned during natural disasters across the State. As the agency tasked with coordinating state resources and mutual aid in response to those jurisdictions requesting assistance during an emergency, Cal OES has the opportunity to observe those jurisdictions' successes and struggles during natural disasters. It can identify problems caused by gaps in the jurisdictions' emergency preparedness and determine how frequently similar issues arise across jurisdictions.

Further, implicit in Cal OES's mission to protect lives, build capabilities, and support communities is a responsibility to identify and take proactive steps to correct problems in emergency management that may jeopardize the lives of residents, including those with access and functional needs. Although Cal OES does not bear responsibility for local jurisdictions' shortcomings, it can play a critical role in helping local jurisdictions avoid the mistakes of others. In fact, for each declared disaster, state law requires Cal OES, in cooperation with other state and local agencies, to complete an after-action report, which includes a review of the public safety response actions. Cal OES completes these after-action reports in part based on a review of after-action reports that local jurisdictions complete and submit to Cal OES. In addition, the law requires Cal OES to make these reports available to all interested emergency management and public safety organizations. Therefore, the preparation of these reports presents Cal OES with a prime opportunity to share lessons learned and suggest corrective actions throughout the State. However, as Figure 13 shows, weaknesses in Cal OES's after-action report process have prevented it from sharing valuable information in this manner.

Weaknesses in Cal OES's after-action report process have prevented it from sharing valuable information.

Perhaps most importantly, Cal OES has not completed its after-action reports in a timely manner. State law requires Cal OES to complete after-action reports within 120 days after a disaster. However, in a January 2019 meeting with Cal OES's state emergency system advisory board, the project manager responsible for improving after-action reporting at Cal OES shared with

From January 2014 through December 2018, there were 65 proclamations of natural disasters in the State for which Cal OES should have completed after-action reports. However, Cal OES has not completed after-action reports for the disasters associated with 57 of these proclamations.

Cal OES's advisory board and its director that Cal OES has never completed after-action reports on time. From January 2014 through December 2018, there were 65 proclamations of natural disasters in the State for which Cal OES should have completed after-action reports. However, Cal OES has not completed after-action reports for the disasters associated with 57 of these proclamations. At the time of our review, the most recent disaster for which Cal OES had completed an after-action report occurred in February 2015, and it did not complete that report until May 2019—more than four years later. During those four years, numerous natural disasters occurred, including several of the largest and most destructive wildfires in California's history. As a result, multiple local jurisdictions have provided their own after-action reports from these disasters to Cal OES, and Cal OES could have used them to write and broadly disseminate an after-action report describing the lessons learned from those disasters. However, Cal OES has not distributed after-action reports from any of those events.

Figure 13
Cal OES Has Not Shared After-Action Reports That Could Have Strengthened Disaster Response



Source: Cal OES after-action report documents and interviews with staff at Cal OES.

The potential value that one jurisdiction could gain from learning about another's errors during emergency planning or response makes Cal OES's failure to complete timely after-action reports a serious concern. For example, as we discuss in Chapter 1, Sonoma and Ventura did not issue messages directing people to evacuate in languages other than English during the 2017 fires we reviewed. Had Cal OES issued after-action reports related to these two disasters, we would have expected the reports to include a review of the use of

English-only alert and warning messages due to the critical nature of communicating with all residents. In fact, each county provided Cal OES with its own after-action report that identified the trouble it had communicating with individuals who did not speak English. However, Cal OES has yet to issue after-action reports for these disasters. Subsequently, during the response to the Camp Fire in 2018, Butte also did not issue alert and warning messages in any language other than English. By sharing lessons learned from these natural disasters in a timely manner, Cal OES could help other local jurisdictions avoid this same mistake in future disasters.

In addition, by not issuing after-action reports, Cal OES has missed an opportunity to educate local jurisdictions about effective strategies that other local jurisdictions have employed during natural disasters. For example, during the December 2017 Lilac Fire, San Diego County (San Diego) used a specially trained team of Spanish language translators from various county departments to staff its county information center—which, during the time of the incident, was coordinating press conferences and posting information about the disaster online. In the after-action report that San Diego submitted to Cal OES, it reported that this team of translators increased the county's ability to provide emergency information in Spanish. The effectiveness of this strategy could aid other counties seeking ways to improve their ability to communicate with people with limited English proficiency during natural disasters. However, as of October 2019, nearly two years later, Cal OES has not issued an after-action report for the Lilac Fire, which could have informed other local jurisdictions about San Diego's effective use of a team of translators.

By not issuing after-action reports, Cal OES has missed an opportunity to educate local jurisdictions about effective strategies that other local jurisdictions have employed during natural disasters.

Cal OES has not set firm standards for completing after-action reports. Although state law requires it to complete the reports within 120 days, Cal OES shared with us that the date an incident is closed—which it believes begins the 120-day period—is not well defined. Despite this perspective, Cal OES has not taken action to better define that date, even though the minutes for the meetings of its after-action reporting committee show that committee members have acknowledged the need to do so. Given that the law requiring Cal OES to complete these reports became effective in January 1993, Cal OES has had more than enough time to correct any lack of clarity that exists in the required time frames for its completion of after-action reports, so we question the urgency of its efforts to produce those reports in a timely manner.

The branch chief who oversees the division responsible for creating after-action reports stated that some local jurisdictions involved in natural disasters do not submit their after-action reports to Cal OES and that Cal OES begins compiling its after-action report when all of the pertinent local agencies have submitted their

required documentation. However, multiple local jurisdictions have already submitted their reports to Cal OES, and it seems imprudent for Cal OES to delay after-action reports while it waits for the remaining jurisdictions to submit their reports. Given the benefit that sharing lessons can provide to local jurisdictions in improving disaster response, and the devastating effects that mistakes can produce, Cal OES's dissemination of those lessons in a timely fashion is critically important. Therefore, Cal OES should not delay issuing after-action reports because some local jurisdictions have not yet submitted their reports. The branch chief agreed that the process must become timelier to ensure that Cal OES captures and disseminates lessons learned as quickly as possible. In March 2019 Cal OES revised its process for collecting after-action reports from local jurisdictions to require only the legally mandated information related to the State's emergency management system and to allow local jurisdictions to submit their responses through an online portal. The branch chief explained that streamlining and shortening the number of questions will enable the after-action process to be timelier and to meet requirements. However, as of October 2019, Cal OES informed us that it has not issued any after-action reports using this process.

Even when Cal OES does complete after-action reports, it does not widely disseminate them or make them easily accessible to local jurisdictions. As we describe above, state law requires Cal OES to make its after-action reports available to all interested public safety and emergency management organizations. To achieve the greatest benefit from these reports, we expected Cal OES to publish them, likely by distributing them to local emergency managers or posting them on its website. Doing so would allow emergency managers in all local jurisdictions to quickly access the reports to learn about ways they can improve their emergency plans, response, and recovery. However, although Cal OES meeting minutes show that in June 2018 it discussed making reports available publicly, Cal OES told us during our audit that it requires local jurisdictions to request these reports. By making local jurisdictions request after-action reports rather than broadly disseminating them, Cal OES limits the number of local jurisdictions that can benefit from the lessons that those reports contain.

By making local jurisdictions request after-action reports rather than broadly disseminating them, Cal OES limits the number of local jurisdictions that can benefit from the lessons that those reports contain.

Cal OES explained that it does not share its after-action reports publicly because they contain sensitive information. However, Cal OES could distribute lessons learned without divulging sensitive or confidential information about the natural disasters under review. It could, for example, publish an annual report summarizing new or successful emergency response strategies, problems that occurred during incidents over the previous year, and recommendations for how to prevent them. It could also redact the sensitive or confidential information before publication.

Cal OES believed that it effectively shares lessons learned through alternate means besides the after-action reports. The chief of Cal OES's emergency response section stated that Cal OES shares lessons learned from natural disasters verbally at mutual aid regional advisory committee meetings, which, according to Cal OES documentation, allow local jurisdictions to be informed of the latest information on emergency management and on the State's emergency management system. However, we reviewed meeting minutes and agendas for those meetings and found that although the minutes stated that some local jurisdictions shared lessons learned during those meetings, several local jurisdictions did not attend the meetings, meaning that they would not have benefited from those discussions. Similarly, although the chief asserted that he presents lessons learned related to meeting access and functional needs when he attends functions and events throughout the State, those lessons could only benefit the local jurisdictions that attend the functions he visits and the chief cannot reasonably visit every local jurisdiction in the State each year. Because it has not widely publicized lessons learned from recent disasters, through after-action reports or any other means, Cal OES has failed to broadly distribute information that could help local jurisdictions across the State learn from the experiences of others and improve their ability to effectively respond to natural disasters.

Recommendations

Legislature

To ensure that, as the leader of emergency response efforts in California, Cal OES meets its responsibility to provide local jurisdictions with critical support in planning to meet access and functional needs of the population during natural disasters, the Legislature should require Cal OES to do the following:

- Involve representatives of individuals with the full range of access and functional needs in the development of the state plan, the state emergency management system, and the guidance and training it provides to local jurisdictions.

- Assess local jurisdictions' emergency response and recovery efforts during natural disasters, review their after-action reports to identify lessons learned, and annually disseminate guidance summarizing those lessons.

Cal OES

To ensure that it fulfills its responsibilities under state law, Cal OES should, by no later than June 2020, issue the guidance that state law requires it to produce related to access and functional needs, including guidance related to establishing disaster registries and guidance on evacuating people with access and functional needs.

To ensure that it adequately equips local jurisdictions to send alert and warning messages in languages that their residents will easily understand, Cal OES should do the following:

- Provide clear direction to individuals who speak English so that they know which of the translated messages they should use in what specific circumstances.
- Revise the messages it has provided so that local jurisdictions can more easily adapt them for use in a variety of disaster situations.
- Expand its style guide to include terminology that emergency managers are likely to need to effectively modify their local messages and also to include translations for the other commonly spoken languages in the State.

To improve local jurisdictions' ability to quickly retrieve guidance and resources related to planning to meet access and functional needs during natural disasters, Cal OES should make its emergency planning guidance and resources easily available through restructuring and improving its access and functional needs library webpage by April 2020.

We conducted this audit under the authority vested in the California State Auditor by Government Code 8543 et seq. and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA
California State Auditor

December 5, 2019

Appendix A

RESOURCES THAT THE STATE AND FEDERAL GOVERNMENT MAKE AVAILABLE TO DISASTER SURVIVORS AFTER A NATURAL DISASTER

Table A lists the services and financial assistance that the state and federal governments make available to disaster survivors following natural disasters. Table A does not include assistance or services that are not specific to natural disasters; rather, it lists assistance or services for which the disaster survivors may become eligible as a result of the impact of a natural disaster, such as services available to people with low incomes.

Table A
Selected State and Federal Assistance for Survivors of Natural Disasters

STATE	GENERAL ELIGIBILITY	KEY PROGRAM OR SERVICE BENEFITS
Department of Social Services State Supplemental Grant Program	Individuals who have received the maximum housing assistance from FEMA.	Assists with rental housing; repairing/replacing homes and personal property; cleaning and debris removal; and disaster-related illness, injury, or funeral costs.
Disaster CalFresh	Disaster survivors who do not exceed certain income limits.	Provides one month's worth of food benefits that can be used to purchase food at authorized retail stores.
Department of Motor Vehicles	Disaster survivors.	Replaces certain DMV documents, such as driver's licenses and vehicle registration, at no cost if lost or damaged due to a disaster.
CalWORKS Program	Families that become homeless as a result of a declared natural disaster.	Provides temporary and permanent homeless assistance.
Board of Equalization	Owners of real property and certain other property types damaged by declared natural disasters, as permitted by county ordinance.	Provides property tax relief.
Employment Development Department	Workers unemployed due to a disaster or emergency.	Provides unemployment insurance, disability insurance, or paid family leave. In addition, assists individuals in applying for federal Disaster Unemployment Assistance (DUA) when authorized by the President.
Franchise Tax Board	Taxpayers who experience disaster losses.	Provides guidance in obtaining tax relief for disaster losses.

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FEDERAL	GENERAL ELIGIBILITY	KEY PROGRAM OR SERVICE BENEFITS
*American Red Cross (Red Cross)**	Disaster survivors.	Provides shelter, food, bulk distribution of needed supplies, first aid, and welfare information.
FEMA Individuals and Households Program	People affected by a declared disaster who have uninsured or underinsured necessary expenses and serious needs.	Provides financial housing assistance for rent, home repairs, and home replacement. Also provides direct housing assistance, such as manufactured housing units, when survivors cannot use rental assistance because they lack housing resources.
FEMA Individuals and Households Program Other Needs Assistance Provision	Disaster survivors who apply for a U.S. Small Business Administration disaster loan and are either denied or can demonstrate that the loan does not cover all their necessary expenses.	Provides financial assistance for funeral expenses, medical expenses, moving and storage expenses, and repair or replacement of personal property, including clothing, household items, transportation, and other property.
FEMA Transitional Shelter Assistance	FEMA-registered disaster survivors, displaced from their residence because of a disaster.	Provides short-term stays in hotels or motels.
U.S. Small Business Administration Disaster Loan Assistance	Homeowners and renters in declared disaster areas. Individuals do not need to own a business.	Offers low-interest, long-term loans to repair or replace homes, refinance mortgages, and replace damaged or destroyed personal property.
United States Department of Agriculture (USDA) Rural Development	Low-income homeowners in rural areas.	Provides loans and grants to help with repairs from damages caused by disasters. Individuals can also receive priority for renting USDA-financed rental housing.

Source: Disaster relief documentation from FEMA, Cal OES, California Department of Social Services, and the websites for the disaster programs and services contained in Table A.

* We included the Red Cross as a federal resource available to disaster survivors because as we mention in the report, the Red Cross has a federal charter to provide relief across the country during natural disasters.

Appendix B

SCOPE AND METHODOLOGY

The Audit Committee directed the California State Auditor to examine emergency plans for the safe and efficient evacuation of residents with access and functional needs in counties that have experienced natural disasters. We reviewed the extent that three counties—Butte, Sonoma, and Ventura—have incorporated best practices related to protecting people with access and functional needs during natural disasters into their emergency plans. We also reviewed the extent to which Cal OES has provided key guidance to local jurisdictions to support them in planning to meet access and functional needs. We did not assess particular claims or complaints, nor did we evaluate or reach conclusions about matters pending before various legal tribunals whether related to liability, fault, damages, or any related issues. Table B below lists the objectives that the Audit Committee approved and the methods we used to address them.

Table B
Audit Objectives and the Methods Used to Address Them

	AUDIT OBJECTIVE	METHOD
1	Review and evaluate the laws, rules and regulations significant to the audit objectives.	Reviewed relevant federal and state laws, rules, regulations, and best practices related to emergency management, emergency plans, and access and functional needs.
2	Review a selection of after-action reports that cities and counties have filed with Cal OES and other available sources of information for recent emergencies and disasters, including wildfires, to identify lessons learned regarding assisting individuals with access and functional needs during and after the incidents.	• Reviewed a selection of Cal OES's after-action reports, after-action reports that local jurisdictions submitted to Cal OES, and other reviews of response and recovery for recent natural disasters, and documented commonly reported challenges in meeting access and functional needs. • Reviewed Cal OES's after-action report process and interviewed staff at Cal OES and local jurisdictions regarding that process.

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	AUDIT OBJECTIVE	METHOD
3	For a selection of three counties that have recently experienced natural disasters, evaluate the counties' processes for ensuring that individuals with access and functional needs are accounted and cared for before, during, and after an emergency or disaster by doing the following: a. Identify requirements in state and federal law and best practices for emergency response regarding accounting for and assisting individuals with access and functional needs—such as elderly residents and residents with disabilities—during emergencies, including emergency communication, evacuation, and sheltering. Assess the counties' emergency plans, including whether the plans adequately incorporate those requirements and best practices. b. Determine the extent and frequency with which the counties have reviewed and updated their emergency plans and have incorporated lessons learned from recent emergencies and disasters to ensure that those with access and functional needs are evacuated in a safe and efficient manner. c. Identify and assess the resources and programs the counties make available to individuals with access and functional needs following an evacuation.	• Selected three counties—Butte, Sonoma, and Ventura—that had recent, significant natural disasters. • Reviewed the counties' emergency plans and interviewed county staff to determine the extent to which the plans complied with state law and incorporated key best practices, as well as the frequency with which the counties updated their plans. • Reviewed available emergency response records from the Camp, Sonoma Complex, and Thomas Fires to assess the extent to which planning and preparedness efforts affected the counties in the areas of alerting, evacuating, and sheltering people with access and functional needs. • Reviewed the counties' plans and other documentation to determine the extent to which the counties made revisions to their plans following their respective fires to incorporate best practices and lessons learned. • In each county, interviewed representatives of and collected documentation from community organizations representing individuals with a variety of access and functional needs to learn the experiences of the people whom they represent during the recent fires and to determine the extent to which those organizations have been involved with county planning efforts. • Reviewed the counties' plans for establishing local assistance centers to connect people with disaster support resources and programs following natural disasters. We reviewed available records and interviewed county staff regarding the local assistance centers that the counties established during their recent fires. We documented the disaster resources and programs that state and federal government entities provide to people impacted by a disaster.
4	For the counties selected for Objective 3, determine what additional resources, information, or guidance they require to develop effective emergency plans, including whether changes to statewide policy are necessary.	• Reviewed the training and guidance that Cal OES and FEMA make available to local jurisdictions for developing plans that incorporate strategies for assisting people with access and functional needs. • Reviewed state laws and regulations related to emergency planning, including planning to meet access and functional needs. • Interviewed staff at each county regarding what additional resources, information, and guidance they require.
5	Determine the number of casualties that have occurred as a result of an emergency or disaster over the last five years, including, to the extent possible, the proportion of casualties that were individuals with access and functional needs.	• Interviewed staff at Cal OES and the California Department of Public Health and determined that these entities do not track the number of casualties from natural disasters. • Obtained death records from each county we reviewed for all deaths that the counties determined were related to natural disasters. Reviewed death records to determine the proportion of those casualties who may have had access and functional needs.
6	Review and assess any other issues that are significant to the audit.	Did not identify any additional significant issues.

Source: Analysis of the Audit Committee's audit request number 2019-103, as well as information and documentation identified in the table column titled Method.

Butte County Administration

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October 22, 2019

Elaine M. Howle*
California State Auditor
621 Capital Mall, Suite 1200
Sacramento, CA 95814

RE: Butte County Response to the State Auditor's Report on Emergency Planning

Dear Ms. Howle:

Butte County ("County") appreciates the Legislature's interest in emergency planning in counties recently struck by large disasters, as well as the State's work in auditing Butte County's planning documents and emergency operations plans based on FEMA and CalOES guidelines and best practices and providing recommendations for improvement. In reality, most of FEMA's guidelines and best practices do not take into account large-scale, catastrophic wildfires in counties with limited financial and public safety resources. FEMA's guidance has historically focused on hurricanes and flooding, which allow for advanced notice and planning. Wildfires happen with no notice, unlike hurricanes and floods. The County understands that new regulations, guidelines, and best practices for devastating wildfires experienced by many California counties in the past two years, will be published in the future. ①

The audit report ("report") reflects the State Auditor's responsibility to cast a critical eye on matters it is charged with reviewing. The analysis highlights areas where improvements can be made. The County strives to improve response efforts after every disaster, and the recommendations will be considered along with input from other valued partners. The County is already implementing, or began implementing after the Camp Fire, many of the protocols regarding alerts, warnings and evacuations that are called out in the report. For the practices not already implemented and that are appropriate for Butte County, the County intends to implement them over time as resources become available. ②

General Response

It is important to define the structure for emergency response in Butte County to provide context to the report, as every county in California is structured differently to meet its individual needs. ③

* California State Auditor's comments begin on page 89.

- The Office of Emergency Management is responsible for plans such as the Emergency Operations Plan and the Local Hazard Mitigation Plan. It is also responsible for the operation of the County's Emergency Operations Center, for providing support such as public information, care and sheltering of humans and animals, roads and bridges closures and emergency repairs, physical and mental health support to shelters, coordination with local partners (i.e., health care facilities, utility/water districts, cities, etc.) and coordination with State and federal partners. Many County employees from departments throughout the organization are trained and participate in the Emergency Operations Center when it is activated. When the County does not have sufficient resources to address a disaster, it requests resources through the State.

- Certain departments, such as Public Health, Public Works, and General Services, operate Department Operations Centers to support the Emergency Operations Center. The Public Health Department, through its Department Operations Center is responsible for coordinating and processing requests for health and medical resources through the State.

- The Sheriff's Office is responsible for alerts, warnings, and evacuations, including the planning associated with those functions. The Sheriff's Office utilizes the State's mutual aid system to request additional resources when local resources are no longer sufficient.

- The Fire Department, in addition to responding to fires and medical calls, assists in planning for, training for, practicing, and implementing evacuations. The Fire Department also depends on the State's mutual aid system when local resources are no longer sufficient.

④ It is also important to understand the order of magnitude and speed of the Camp Fire, a fire so devastating and fast that no plan could adequately address it. To put the fire in perspective, 83,000 acres were burned in the first 15 hours. On average that is 5,533 acres every hour, 92 acres every minute, or 1.5 acres every second. Within 75 minutes of the fire first being reported, there were spot fires on the eastern side of Paradise which is eight (8) miles away from the origination of the fire. Within another 60 minutes the fire had progressed halfway through the Town of Paradise. The speed of this fire overwhelmed all first responders and was unprecedented in California in its destruction. Due to the extreme chaos, the speed of the fire, and the loss of power, landlines, Internet connections, and cellular networks in the area, along with downed power lines, poles, and trees, navigating the area of Paradise was extremely difficult and dangerous for the public evacuating and for first responders. Communications were near impossible due to destroyed and damaged infrastructure, loss of power, and thick smoke. As evacuation routes became impassable and vehicles caught fire, sheltering in place became a necessity. Bodies of water and open areas such as parking lots and helipads saved many lives.

Wildfires are a danger throughout California, and the amount of planning and mitigation that is needed to be ready for a catastrophic fire like the Camp Fire far exceeds available local resources. The California Office of Emergency Services (CalOES) exists to support local

government when it lacks adequate resources to respond. The State's mutual aid system is in place to obtain the resources needed on behalf of the impacted jurisdiction. No jurisdiction in California has sufficient resources for a catastrophic and large scale disaster like the Camp Fire.

The County agrees that plans serve an important purpose, and that training and practicing execution of the plans assists in identifying whether the theories in the plan are executable in reality. Butte County knows this too well as it has experienced more disasters than most counties. Ideally, all County planning documents would be updated on a regular basis. Unfortunately, the County lacks the resources to update all of its plans as often as it desires, as it has been faced with one disaster after another in recent years. Even though plans are not updated frequently, Butte County is better prepared than most California counties for future natural disasters due to its extensive experience over the past decade. Residents are not at a greater risk just because the County has not had the resources to thoroughly document these efforts. (5)

Planning for wildfires is complicated. Wildfires have erratic behavior, and depending upon conditions they can move rapidly, well beyond the speed of humans, vehicles and even communication transmission. During wildfires, decisions must be made in the moment and emergency response must be nimble enough to adjust to changing circumstances. Though the report appears to make planning more important than response, the County knows from decades of experience in disasters that planning is helpful, but is not the only indicator of success in responding to disasters. Effective emergency response depends on training, experience, and the ability to make decisions under critical and fast-moving circumstances; something the County is proud to say it has done well. (6)

The County concurs that plans have not been updated. There are two major factors that contribute to the lack of updates: 1) the impacts of the Great Recession on the County's financial and staffing resources since 2009-10 and 2) multiple disasters since 2016 – eleven disasters consolidated into eight local declarations (four of the eight included Presidential declarations and seven of the eight included State declarations). The County's plan, once the effects of the Great Recession lessened, was to update its emergency plans in 2017, but responding to disasters became a priority over updating plans. The work required of staff does not end once emergency response is over. Recovery efforts often require more time and resources. The amount of administrative reporting, document management, and tracking that is required for federal and State assistance is tremendous. The staffs responsible for updating plans have been required to focus on responding to disasters and obtaining reimbursement for the County, which has been a continuous cycle since the middle of 2016. The County would welcome financial and technical assistance from the State to update County planning documents in the future.

The County does not concur with the statement that lack of documentation and updated plans, and not following all best practices for planning, equates to not being prepared or having inadequate response and recovery efforts. Unfortunately, due a lack of County documentation, the report does not discuss or recognize the extensive planning, training, and community drills (5)

that have been done by Butte County over the past decade. The County provides many examples of excellent planning efforts and process improvements that have been put in place over the years, and as recently as post-Camp Fire, in Exhibit A to this response. The County does appreciate the report's recognition of the many remarkable efforts and even heroic acts by many during the Camp Fire.

The timing of the report is especially unfortunate, as Butte County and its residents are still in the midst of emergency response and recovery, and have yet to fully address the trauma felt by its residents. The report's timing caused additional burden as County staff had to divert their time to accommodate the audit and prepare this response, in place of providing vital services to residents. The County recommends that future reports on large and traumatic events be timed further out from the event to avoid further traumatizing disaster survivors and workers, who in the case of the Camp Fire are often one in the same. The County also suggests that the State Auditor's Office considers providing adequate time for jurisdictions to review and respond to audit reports. A few hours for review and five working days for response are especially difficult for a jurisdiction in the midst of recovery efforts from a catastrophic event. ⑦

Provided below are the County's responses to the recommendations in the published report. The County understands the purpose of the audit was to review emergency planning efforts, though it appears to have expanded its scope to include discussing response efforts during the Camp Fire and drawing conclusions based on limited information from interviews with a handful of County staff and some local partners over a short period of time. Given sufficient resources and fewer disasters, the County would have updated plans. The County does not agree with statements that the County does not preplan to obtain resources needed in a disaster because it doesn't have signed agreements in place. It is important to note that no amount of documented plans and signed agreements would change the lack of availability of resources in the County and surrounding areas due to the non-urban nature of Northern California, or throughout the State when multiple disasters are taking place simultaneously in California or the nation. ⑧ ⑨

Recommendations

The report contains recommendations for the Legislature to place additional requirements on CalOES. The County would welcome the increased participation by CalOES in assisting with and reviewing local emergency plans. The County stresses that financial and technical resources for under-resourced counties are urgently needed to assist with planning efforts, though.

Recommendations for Butte County:

1. ***Update emergency plans by following best practices provided in Figure 11 in the report, as soon as possible, and should develop a schedule for completing updates by no later than March 2020.***

Butte County agrees that its emergency plans need to be updated, and not just for individuals with access and functional needs. Butte County has been planning for such an update since 2016. Unfortunately, the County has not had the financial or staffing resources to begin an update due to multiple disasters beginning in the middle of 2016 (floods, wildfires, Spillway Incident, PG&E planned power shutoffs), as well as the impact the Great Recession had on the County's available financial and human resources. The same staffs that are responsible for emergency planning are also responsible for response and recovery. Until the County has completed the Camp Fire response and recovery, which could be years, it is unable to take on any additional duties without additional financial and staffing resources. Fire debris removal, hazard tree removal, housing, and financial survival are the County's focus at this time. The County will work on a schedule for updating plans, though updates will most likely not be completed in 2020.

In addressing the recommendations in Figure 11, which are specific to access and functional needs populations and required by State law after January 2020, the County's process will include the following in its next plan update.

Emergency Plan Development

- A diverse planning team with additional focus on the access and functional needs population, and interested community-based organizations that serve the population.
- Continued utilization of the data historically utilized by the County including Census data, data from County health and human services departments and community organizations, PG&E medical baseline data, and CalOES resources, to assess needs. ⑩
- Emergency plans will be updated as resources are available, with a goal of every five years.

Alert and Warning

- The Sheriff's Office completed an updated alert and warning plan in October 2019. ⑪
- The Sheriff's Office completed creation of pre-scripted messages in October 2019.

Evacuation

- The County has an all-hazard mitigation plan, and as resources are available, will update elements that do not reflect current practices and conditions. ⑫
- The County has access to multiple data sources (Census, medical baseline, Special Needs Awareness Program (SNAP) registry, etc.) regarding people who might need evacuation assistance. The County utilizes that data for pre-planning and during every disaster. Real time data and mapping is required during any disaster, not data that is contained in a plan from a point-in-time. ⑬

- Though an agreement is not necessary with the local transit agency, as the County is a member of the agency and can access buses whenever requested during an emergency, the County will request a formal agreement with BCAG. The County will also request a formal agreement with the Butte County Office of Education and local school districts for use of school buses, though the resources have been used in past disasters without an agreement. Ambulance transportation is accessed through the State and the mutual aid process. (14)

Sheltering

- The County has an established sheltering plan and assessments of shelter facilities that provide details on which facilities can support access and functional needs individuals. Butte County will update the plans as necessary and as resources are available. (15)
- The County has historical data from multiple disasters that provides a good assessment of how many people may seek shelter during disasters, as well as how many have access and functional needs and the resources needed to support them. In addition, the County will continue to use the Bay Area Urban Areas Security Initiative shelter planning tool that calculates shelter estimations based on population to plan for needed resources. The tool incorporates the best practices from FEMA and CalOES. (16)
- The County will continue developing agreements with vendors, where equipment and resources are available in the area. For equipment and resources not available in the area, the County will continue to depend on the State to provide the resources. (9)

Local Assistance Centers

- Butte County will continue to utilize the best practice guidelines established by CalOES and incorporate them into the County's Emergency Operations Plan. When a Local Assistance Center is opened, Butte County will continue to ensure that it is accessible and that communication services are provided for those with limited English proficiency.

2. ***Butte should adopt ordinances establishing requirements for the frequency with which it must update its emergency plans and should set that frequency to no greater than five years.***

(17) The County will consider adopting an ordinance as recommended, though it will have a caveat that it is a goal and not a requirement and will recognize that future disasters or competing priorities for limited resources may make meeting the frequency goal difficult. The County will not hold people accountable for a standard that cannot be met due to circumstances out of the control of the responsible party.

3. ***Butte should adopt county ordinances that require its county emergency manger to do the following during each update of its emergency plan.***
   - ***Adhere to the best practices and guidance that FEMA, CalOES, and other relevant authorities have issued when planning to protect people with access and functional needs.***
   - ***Report publicly to the Board of Supervisors during emergency planning about the steps it has taken to address access and functional needs.***
   - ***Consult periodically with a committee of community groups that represent people with a variety of access and function needs and require that representatives of the community group committee present to the Board of Supervisors its adequacy of the emergency plans.***

   The County strives to follows best practices for any type of planning. The County will convene a committee representing the populations described above, and hold periodic meetings for input on emergency plans, once there are financial and staff resources available for planning purposes. Staff will provide written updates to the Board of Supervisors during planning processes and will post the updates to the County's Office of Emergency Management website for the public. The County will consider the best tool for the participants to provide feedback on the plan to the Board of Supervisors.

The County expresses sincere appreciation to the Legislature for its interest in this important topic. The report underscores that under-resourced counties, such as Butte, need resources and technical assistance from the State. The County also thanks the State Auditor's staff for their professionalism and their efforts to accommodate challenging schedules as they attempted to review a very complex topic in a short amount of time. The County appreciates that some discussions were difficult for those who have not been through such a devastating disaster, and want to recognize that the State Auditor's staff are now a piece of the Camp Fire history.

Respectfully,

Shari McCracken
Chief Administrative Officer

Kory L. Honea
Sheriff-Coroner

Exhibit A

As the format of the report carries common themes throughout the findings, the County has chosen to organize specific information by those common areas, instead of following the order of the report. Provided below is detail behind each of the common areas that may be of interest to some readers. It is provided to acknowledge the hard work of the County and its partners, and recognized as County assertions where documentation was not available to support it for purposes of the report. (18)

Emergency Planning

The report asserts that Butte County has not adequately followed best practices for emergency planning. (19) The foundation of this assumption appears to be based on the fact that Butte County does not have an updated Emergency Operations Plan or clear documentation of all of its emergency response procedures and practices, which the County does not dispute. The finding does not take into account historical and current planning efforts by the County that have not been documented in a formal plan.

Butte County has collaborated extensively with stakeholders including CAL FIRE, California Highway Patrol (CHP), local law enforcement agencies, local emergency service providers, community organizations, Red Cross, CalOES and other State and federal agencies to develop protocols and practices for the response to emergency situations. (20) Despite the fact that these established protocols and practices have not yet been codified in a single source document, they are part of Butte County's overall strategy to manage disasters. The protocols and practices have served the County well through multiple disasters and through after action review processes are improved upon each time the County faces a disaster and learns new lessons. The County appreciates that the report acknowledged that the County does have some updated response practices, even though they are not incorporated into a written plan.

Butte County has multiple sources of information on the demographics of its communities such as Census data, the Butte County Public Health Department's Community Health Assessment, supported living and health facility lists, and eligibility and client data from the Butte County Department of Employment and Social Services and other local service providers. (13) Though it may not all be incorporated into a central plan, the County is aware of the facilities that house individuals with access and functional needs in its communities, as well as individuals living on their own. The Butte County Department of Employment and Social Services (DESS) maintains a database of people with access and functional needs. The database, as well as PG&E medical baseline customer data, is used for multiple purposes during disasters to reach out and communicate with individuals that might need assistance.

Though the County's All-Hazard Evacuation Plan has not been updated since 2011, it represents an incredible amount of effort and useful information to support disaster response. (21) As part of the planning efforts, the Sheriff's Office worked collaboratively

with Butte County Fire, Paradise Fire, and CAL FIRE to identify zones in Oroville, Paradise, Magalia and other foothill communities to better facilitate evacuations of those areas, prior to the Camp Fire. Maps of those areas with evacuation routes were created and distributed to residents to help them be better prepared. Drills and training regarding the evacuation plans were held with community members, the plans and maps are posted on the County's website, and copies of plans and maps were provided to local fire safe councils to share. The Sheriff's Office has a close working relationship with Butte County Fire, Paradise Fire, CAL FIRE, and CHP and has developed sound evacuation coordination procedures for emergencies. Butte County, the Town of Paradise and CHP, developed contraflow traffic plans for evacuation routes out of Paradise and Magalia well before the Camp Fire, in anticipation of evacuations in those areas. Various types of traffic plans have been implemented in real life incidents, multiple times each year for the past several years throughout the County.

Planning for Adequate Resources

Butte County is aware of the needs of its residents with access and functional needs due to frequent disaster responses and by the nature of the day-to-day services the County provides through many of its programs, especially health and human services programs. The report specifically calls out evacuating and sheltering people and states that Butte County has not fully ensured the availability of critical resources that would be needed during a disaster. The County agrees it does not have formal agreements in place, but must disagree with the assessment that resources are not available as the County has adequately coordinated transportation and sheltering through multiple disasters. ㉒

Regarding transportation for access and functional needs populations, the information in the database referenced previously is shared with the Sheriff's Office communications center so that in the event of evacuations Sheriff's Office dispatchers, if possible, can identify locations of people with access and functional needs. Once identified, first responders can respond to those locations to evacuate and assist the individuals. In addition, the Sheriff's Office and the Office of Emergency Management have pre-arrangements with the Butte County Association of Governments (BCAG), of which Butte County is a member, to provide buses and paratransit buses for evacuations. The resources may be ordered by the Sheriff's Office, or through the Emergency Operations Center, whichever is most expedient. In addition to County-provided transportation, individuals have the ability to call 2-1-1 to request assistance on their own, as BCAG and 2-1-1 have an agreement regarding paratransit resources. Ambulances for evacuating medically fragile individuals are ordered through the State's mutual aid process, as there are a limited number of ambulances locally. The State's mutual aid system, though not fully discussed in the analysis, is a key resource for all California counties in disasters. ⑬ ㉓

The County agrees that it did not have adequate resources to evacuate all of the individuals with access and functional needs from the Camp Fire, as the rural road networks, the speed of the fire, and the devastation it was causing made it impossible to

get enough resources into the area to remove every person. The assertion demonstrates the report's recognition of the unprecedented nature of the most catastrophic wildfire in California history.

A statement in the report requires clarification. The County does not wait to locate transportation during an emergency. It is well aware of the available resources. It is accurate to state that transportation is requested during disasters, as it is not possible to pre-order transportation prior to a disaster like a wildfire. During disasters, BCAG is notified as soon as the Emergency Operations Center is activated, and a request to dispatch appropriate transportation is made once the Sheriff's Office provides the location for staging. The County is aware that BCAG has sufficient buses for smaller events similar to the fires in 2017, and that it does not have sufficient buses for larger events as demonstrated during the 2017 Spillway Incident. Once BCAG resources are exhausted, the County requests support from the local schools. Butte County is not a large, urban county, so there are not multiple transit agencies or private transit services to contract with as you might find in urban areas like the Bay Area or Los Angeles.

(24)

Statements that the County should have agreements with vendors for all of the resources needed to shelter access and functional needs populations is not realistic. The County has agreements for available resources in the area, and depends upon the State to assist in procuring equipment and resources the County cannot. The County has recommended to both CalOES and FEMA that they consider regional caches of items such as ADA bathrooms, showers, and cots, as the length of time it takes for the State or federal governments to get such resources is problematic.

(9)

Adequate Warnings and Alerts

The County notes the assertion in the report that it did not prepare adequately to warn residents of danger from wildfires. That assertion does not take into account the complexities inherent with issuing alerts in "no-notice" events that almost immediately overwhelm the capacity of first responders and the systems in place to issue emergency notifications. It also does not take into account the County's efforts to provide alerts and warnings over and above the use of the CodeRED Alert Systems (CodeRED) to issue evacuation orders during the Camp Fire.

(25)

(26)

That assertion appears to be based solely on the fact that the first several messages sent through CodeRED did not incorporate Wireless Emergency Alerts (WEA) and Emergency Alert System (EAS) messages through the Integrated Public Alert and Warning System (IPAWS), which was initially a product of the chaotic conditions under which the sole staff member available at that time to send messages, was operating under. As the day progressed and a better understanding of the situation was developed, the staff member attempted to issue WEA/EAS messages concurrently with CodeRED messages. Those WEA/EAS messages were not successful. When that was learned, BCSO worked with CodeRED to issue subsequent WEA/EAS messages. (BCSO continues to work with CodeRED to understand the cause of the initial breakdown and we have since developed

(25)

(27)

a protocol wherein emergency alerts are sent through CodeRED and a duplicate message is sent through IPAWS).

It is important to understand that a disaster the size of the Camp Fire is beyond the staffing capacity of most organizations, as agencies must staff to the norm and not to extreme circumstances. Under the circumstances of a normal disaster, staff would not have been immediately overwhelmed. The report does not acknowledge that the County initiated messaging to landlines in the affected area, in partnership with AT&T. Also, absent in the discussion is Voice over Internet Protocol (VoIP), which is the communication resource many foothill residents use due to lack of cell service availability. VoIP does not work when infrastructure is destroyed or power is out. In general, any technology-based alert systems, including WEA, EAS, and CodeRED, became useless as cell towers and infrastructure are destroyed quickly and power is cut off. This is evident in the rapidly decreasing delivery percentages illustrated in the Camp Fire notification lists. As the fire progressed and infrastructure failed, the percentages of successful notifications plummeted. (28) (29)

Overall, the findings in the report illustrate the frailty of any alert and warning system that relies solely upon the wireless network to convey messages. Butte County recognized that frailty years ago and as a result developed other methods of communicating emergency information to impacted communities. During the Camp Fire, Butte County also disseminated information to its social media sites, websites and traditional media. Local news channels began broadcasting about the fire and the evacuations immediately. First responders used sirens to alert people while doing door-to-door notifications. First responders used public announcement systems from their vehicles. All of these methods of alerting and warning the public are in accordance with FEMA and CalOES best practices. The County utilized numerous resources to warn residents before and during the Camp Fire. There is no FEMA best practice that will provide for broad notifications during a catastrophic fire storm as was experienced during the Camp Fire. (29) (29)

Butte County did not use template messaging during the Camp Fire, in part because templates had not yet been created by the State. In March 2019, 4 months after the Camp Fire, Cal OES released their Alert and Warning Guidelines. In October 2019, Cal OES released their library of messaging templates. The Sheriff's Office has since developed alert and warning guidelines and message templates in English, Spanish and Hmong, in compliance with the State's guidance. Important to note, the best practices referred to in the report do not take into account the inherent limitations of the WEA system with regard to its 90 character limitation. It is very challenging to convey a threat and the desired response in 90 characters, which is exacerbated when messaging in languages other than English, especially Hmong, as 90 characters cannot always accommodate translated messages. (30)

According to the California State Warning Plan, "Current common practice across all warning systems is to approach multilingual alerting on a best effort basis, but not to delay transmission of English language warning messages while multilingual translations are prepared." Due to not having translation capabilities immediately available and the rapid spread of the Camp Fire necessitating multiple notifications, the County sent out alert and warning notifications in English. (31)

The report states that because the Sheriff's Office did not identify messages as coming from the County it did not follow best practices, and the messages may not have been trusted by the public. However, the combination of the messages, the first responders ascending into Paradise and Magalia with lights and sirens, the black smoke that was overtaking the Town of Paradise, the social media posts released by the County and Town, public social media posts, and news coverage, made it abundantly clear that the area was in imminent danger and the County was warning people to evacuate. (32)

Access and Functional Needs

The report states that the County's Special Needs Awareness Program (SNAP) registry only contains IHSS clients. The SNAP registry includes IHSS plus any individuals that self-identify as needing assistance. In addition, the County has access to PG&E's medical baseline data to further enhance the registry. The County does continuous outreach to individuals and service providers to ensure individuals who might need assistance are included on the registry. (33)

The County has coordinated with groups representing access and functional needs populations and will expand that outreach in the future, as the report states there are additional groups that are interested in participating.

Evacuations

The County has been extremely proactive in working with communities at risk of wildfires and creating evacuations plans. Community evacuation plans were mailed out to all residents as part of the "Ready, Set, Go" campaign in 2016, and extra copies were provided to fire safe councils in numerous communities, including the Town of Paradise. The plans include information on how people can identify which zone they live in. As the County has learned over the years, it takes multiple methods of providing information to reach as much of the public as possible and there is always the potential for not being able to reach everyone. Butte County and the Town of Paradise have worked to educate the public on the zone they live in, but there will always be some portion of the public who will not know what the plan is.

The County is working with other transportation and law enforcement partners to address the traffic congestion experienced in the Camp Fire, by planning to initiate contra flow at points further out from the event. As the County learned, contra flow is an excellent tool until it hits roads that are not set for contra flow.

The report does not recognize that sheltering in place is an emergency option when evacuation routes are not viable. Many lives were saved by jumping into a lake or congregating in open parking lots with minimal vegetation surrounding them. Though this may not be designated a best practice, it may be a reality in rural communities where roads cannot absorb traffic from a large event, and provides a good example of how the disaster dictates the actions and not just plans.

Local Assistance Centers

The County has successfully established local assistance centers in 2008 and 2017 in response to multiple wildfires. The Camp Fire was so large that FEMA offered to stand up a disaster response center and Butte County participated with local resources.

Lessons Learned and Progress Achieved Over the Years (34)

Based on lessons learned over the years the County has either implemented, or is in the process of implementing, a number of measures that improve the County's capabilities and preparedness for future disasters and emergencies. Provided below are many of those lessons learned and process improvements, though they may not currently be documented in formal plans.

- The Sheriff's Office and Butte County Office of Emergency Management (OEM) have collaborated to apply for a non-cellular dependent emergency notification system. The grant request is in the review process and if approved will provide funding for a tool to help notify the public of emergencies in a more expedient manner and without the dependence on cellular networks that are prone to failure during disasters. The limitation in non-cellular dependent emergency notification systems, such as sirens, is the public won't know if the warning is for a flood, fire, tornado, or other type of disaster, which can hamper their ability to determine what steps to take. Without specific information, the public will not know if certain roads are blocked, whether it is best to head to the valley or the mountains, or if finding the closest shelter in place site is better than evacuating.

- The Office of Emergency Management has a SEMS and NIMS trained team for Emergency Operations Center activation that is three to four layers deep and composed of County employees from many County departments. In the case of the Camp Fire, the County had to rely on mutual aid for staffing many positions, due to the intensity and length of the event and a need for hundreds of people to support response efforts.

- The Office of Emergency Management, in coordination with other local jurisdictions and districts, has updated the Local Hazard Mitigation Plan, which will be considered by the Board of Supervisors on November 5, 2019.

- The Department of Employment and Social Services provided shelter management training to all management/leadership staff on October 1, 2019. The Department will be providing EOC training to all leadership staff on October 23, 2019. This training

focuses on the specific roles and responsibilities of operations in the Care and Shelter Branch during an EOC activation.

- The Office of Emergency Management and the Department of Employment and Social Services will be meeting with all faith based and community based organizations who are interested in receiving shelter management training and becoming an official shelter location, beginning in December 2019. The County will develop memorandums of understanding with the organizations that meet the requirement.

- In May 2019, the Office of Emergency Management and the Department of Employment and Social Services met with a local church and developed a memorandum of understanding for sheltering. The church is in the process of reviewing the agreement.

- In July 2019, the County hired a second position for the Office of Emergency Management to assist in recovery efforts, and is in the process of adding a third position due to the workload from the Camp Fire. Most of the funding for the positions will come through reimbursement for administrative recovery functions. The additional positions will eventually free up other staff to address planning needs.

- In July of 2019, the Sheriff's Office created an emergency manager position to specifically prepare for and manage emergencies within Butte County. This position allows more time to be dedicated to addressing issues related to emergency preparedness and disasters. With the additional position, many issues have already been addressed, while others continue to be addressed. The position received training in Emergency Planning in October of 2019. This training will be used to assist the Office of Emergency Management in updating the County's Emergency Operations Plan (EOP).

- The Sheriff's Office added a distinctive Hi-Lo siren to all of the patrol cars in its fleet. This siren will only be used during evacuations to alert people as officers go door to door. The Sheriff's Office has requested other law enforcement agencies in and around Butte County to add the Hi-Lo siren to their patrol car capabilities. This will alert the public that there is an evacuation in progress in case other forms of alerting and notifying don't work. In this manner the County is coordinating with allied agencies to tailor its response to the type of disasters experienced in the north state.

- The Sheriff's Office began community outreach to educate the public about the new evacuation sirens, through press releases, the Office's website, and numerous community meetings with Neighborhood Watch groups, fire safe councils, and other community groups.

- Due to the complexity and dynamics of evacuations such that occurred during the Camp Fire, the Sheriff's office has provided all patrol sergeants with checklists to ensure they are taking into account all priorities during evacuations, as well as requesting all needed resources.

- The Sheriff's Office Alternative Custody Supervision (ACS) Program works with the Public Works Department to clear fuel loads along evacuation roadways. Public Works is inundated with requests from the public, and due to limited resources has been unable to meet the demand. With this collaborative effort, the County has been successful at clearing a significant portion of a two-lane road to a foothill community that only has one way in and out of the area. The Sheriff's Office will continue to provide this collaborative effort with Public Works to clear evacuation routes throughout the year.

- The Sheriff's Office coordinated a meeting with personnel from CalOES, the Office of Emergency Management, Butte County Public Works, Butte County Fire/CAL FIRE, CHP and State Parks to discuss potential simulated fire incidents in various locations throughout Butte County. Approximately eight different communities throughout Butte County were identified, along with the challenges that might be faced, evacuation routes and populations.

- The Sheriff's Office is working with CalOES to identify evacuation strategies that specifically target people with access and functional needs. Planning will be in coordination with Butte County Fire/CAL FIRE, medical personnel, the Office of Emergency Management, other appropriate County departments, and other organizations that serve the population. There is potential coordination with neighboring counties as well.

- When a fire starts and Butte County Fire/CAL FIRE responds, a request is now immediately made for a Sheriff's representative so that evacuation planning can begin a soon as possible. This was not the historical practice.

- The Sheriff's Office met with representatives from throughout the State and with CalOES regarding CalOES' intent to implement statewide use of common evacuation terminology. At that meeting various options were discussed for verbiage to be used by law enforcement and fire personnel to make communications more clear regarding evacuation incidents.

- The Sheriff's Office has completed its Alert and Warning Plan, as well as alert and warning templates that comply with FEMA and CalOES recommendations and limitations. On October 4, 2019 CalOES publicized its translated message template library, providing all jurisdictions with translated message templates in various languages. The Sheriff's Office has completed translated template messages in Spanish and Hmong, which are the two predominately non-English languages spoken in the County according to 2010 census data. The Sheriff's Office has added translation capabilities with its current vendor CodeRED to provide translation services in the messaging platform.

- Since the Camp Fire the Sheriff's Office has developed and implemented protocols to ensure that WEA/EAS messages are successfully delivered in circumstances when it is appropriate for those systems to be utilized. In October 2019, the Sheriff's Office

received a test account from FEMA and successfully sent a test message according to FEMA's best practices and requirements. The Sheriff's Office received a notice indicating that the test was successful.

- The Sheriff's Office amended its contract with CodeRED to provide a toll free number for the public to call to receive updated information during emergencies. Due to the character limitations in WEA and CodeRED, the information that can be sent out in alerts and warnings is limited. The toll free number will have a recorded message with additional information not available in the alerts and warnings sent out via WEA and CodeRED. The Sheriff's Office will be able to frequently update this information during emergencies to enable the public to be better informed.

- The Sheriff's Office has expanded its team of alert and warning technicians to improve the efficiency of sending out alerts and warnings, and to improve accountability for the messages the County sends out to the public. This complies with FEMA's best practices recommendation for 24/7 availability of alert and warning technicians.

- The Sheriff's Office is partnering with Facebook to help send out local emergency alerts to people who use the service and are signed up to receive the alerts. This is another platform the County is utilizing to help alert the public through multiple mediums, as recommended by FEMA and Cal OES.

- Each month Butte County meets with a countywide alert and warning group to collaborate and coordinate communications during emergencies. Representatives from various law enforcement agencies throughout the County meet, along with Butte County Fire/CAL FIRE and the FBI, to discuss alert and warning notifications and capabilities and coordination.

- The Sheriff's Office is currently developing a memorandum of agreement between agencies, to formalize how agencies will work together during emergencies to better serve and protect the public.

- The Sheriff's Office coordinated with CAL FIRE and the Cohasset Fire Safe Council to provide training to the community and did a simulated drill utilizing CodeRED notifications to the community.

- Due to the potential for losing technology infrastructure during wildfires and public safety power shutoffs, the Sheriff's Office and the Office of Emergency Management are working with community groups to establish non-cellular, non-electric dependent radio communications with those community groups most likely to be impacted by wildfires and power shutoffs. The Sheriff's Office is developing a radio plan to communicate instructions to those communities in the event of an emergency, which is another layer of messaging recommended by CalOES and FEMA.

- The Sheriff's Office is in the process of creating a Community Emergency Response Team (CERT) comprised of civilian volunteers. The team will be trained and prepared

for emergencies, and will also train the public to be better prepared for emergencies. The CERT will assist any city or county agency during special events or emergencies.

- The Sheriff's Emergency Manager has attended training related to access and functional needs populations during emergency events. This training was provided by FEMA and included people from numerous public health and social services agencies. Much of the training was related to the 2018 Camp Fire and Carr Fire.

- The Sheriff's Office has its own Incident Management Team (IMT) that follows the ICS structure. The IMT is activated during emergencies, and responds to manage incidents and ensure all aspects of public safety are considered during the emergency. This team will effectively spread the workload that was initially placed on one patrol sergeant to numerous people who will focus on their area of responsibility.

- The County continues to evaluate its response and evacuation procedures for all emergencies. As a result, there are on-going modifications to processes and procedures, such as a more coordinated partnership between the Sheriff's Office and the Emergency Operations Center Logistics Section.

- The County's Public Information Officers (PIO) from the County Administration Department, the Sheriff's Office, and the Public Health Department coordinate emergency messages with each other and release them on multiple social media sites, through the media, and on County websites. The PIOs repost messages from each other's social media sites and press releases to ensure the messages are getting to as broad an audience as possible.

- Butte County is in the process of conducting an after action report from the Camp Fire. This information will be critical to Butte County and other agencies to better prepare for future catastrophic disasters similar to the Camp Fire. Due to the devastation of the Camp Fire, and the critical needs of residents, the County was not able to conduct an after action process until ten months after the event.

This concludes the County's description of the many lessons learned and progress achieved as a result of dealing with multiple disasters. It is by no means an exhaustive list, but it demonstrates our ongoing effort to continually improve our capabilities and enhance future responses.

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM BUTTE COUNTY

To provide clarity and perspective, we are commenting on Butte's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Butte's implication that FEMA's best practices are of limited value for preparing for large-scale, catastrophic wildfires or that they are less applicable to jurisdictions with limited resources, is inaccurate and misleading. As we state on page 15, FEMA has published guidance it describes as the foundation for emergency planning in the United States and that includes fundamentals of planning and developing emergency plans. Included in these practices are having specific plans for critical emergency functions and ensuring that those plans address the needs of the whole community that an agency serves, including people with access and functional needs. FEMA designed these best practices to be applicable to all-hazards, including catastrophic incidents like wildfires, and directs local jurisdictions to tailor their plans to their own communities and needs. Therefore, we did not measure Butte against any best practices that were inappropriate or inapplicable to the emergency situations it has already faced or could potentially face in the future. ①

Butte claims to be implementing many of the best practices we describe in our report. As we note in Figure 4 on page 16, Butte has not implemented key best practices, including having up-to-date plans and conducting demographic assessments to determine its community's needs. Until it does so, Butte is not as prepared as it could be to protect and assist people with access and functional needs during natural disasters. We look forward to reviewing documentation of Butte's progress in implementing these best practices as it provides updates on its progress during our post-audit follow-up. ②

Our report provides appropriate context and sufficient evidence to support our report's conclusions. The information that Butte provides in its response does not alter those conclusions. ③

We note the unprecedented size and scope of the Camp Fire in several places in our report, the first of which occurs in the Introduction on page 12. We also acknowledge in several places that is impossible to determine whether any additional planning efforts by Butte would have changed the outcomes of the Camp Fire. Regardless, as we note on page 19, FEMA guidance states that ④

inadequate plans and insufficient planning are proven contributors to failure. As we conclude on page 22, Butte's planning deficiencies likely hindered its response to the Camp Fire.

(5) Butte misstates and mischaracterizes our report's conclusions regarding the effects of its planning deficiencies. We state on page 16 that because Butte did not fully implement important best practices for planning for natural disasters, its residents may be at greater risk of harm. These practices include having up-to-date plans for critical emergency functions and prearranging vital resources. Butte acknowledged some of these gaps in its planning during our audit and does so again in its response. It is because Butte has not adhered to these practices—and not because of a lack of documentation—that Butte is not aligned with the foundational planning practices encouraged by FEMA and the result is that its residents may be at greater risk of harm than they would be if it had adhered to these practices.

(6) In no part of our report do we state or suggest that emergency planning is more important than emergency response. Butte ignores the importance that both FEMA and Cal OES place on emergency planning and the connection between planning and response. As we note on page 19, FEMA states that inadequate plans and insufficient planning are proven contributors to failure. Our report makes it clear that deficiencies in Butte's emergency planning caused problems during the Camp Fire, and therefore continue to threaten the effectiveness of Butte's disaster response efforts.

(7) We accommodated every request that Butte made for additional time. In fact, at Butte's request we significantly rearranged our schedule for completing audit work, and delayed our first visit to Butte by seven weeks. Further, well in advance of its formal response period, we were clear in our communication with Butte about the conclusions we planned to report. We had several conversations with Butte about the audit's conclusions and a formal meeting at which it had the opportunity to read a draft of the report. We provided Butte the same amount of time we provide to all audited entities to respond to the final draft audit report and Butte never communicated a need for additional time to provide its response. We acknowledge that Butte is still recovering from the Camp Fire, but the suggestion that we were inflexible with the timing of our review is false.

(8) In making this statement, Butte either misunderstands or disregards the scope of the audit that the Joint Legislative Audit Committee (Committee) requested we perform. As we describe on pages 69 and 70, the Committee asked that we evaluate the counties' processes for ensuring that individuals with access and functional needs are accounted and cared for before, during, and after a

natural disaster, in part by reviewing the extent that the counties' emergency plans incorporate best practices. As we describe throughout the report, Butte did not implement key emergency planning best practices before the Camp Fire and has not done so since. We are required by law to follow generally accepted government auditing standards, and those standards require that we examine the effects of the problems we identify in our audits. The effects of deficient emergency planning would manifest themselves most clearly in a county's response to a natural disaster. Therefore, we reviewed the extent that Butte's planning deficiencies caused problems during the Camp Fire. For instance, we describe how Butte's inadequate planning led to its inadequate alert and warning during the evacuations, which we describe beginning on page 29. We based these conclusions not on limited information as Butte asserts, but rather on sufficient and appropriate evidence, including documentation and interviews with staff in Butte who are directly responsible for emergency planning and who were involved in the response to the Camp Fire.

Consistent with its statements to us during our audit, Butte expresses an unnecessarily narrow belief that its agreements for disaster response resources must be limited to the resources available locally. As we describe on page 21, the state emergency plan says that public-private partnership agreements can provide for quick access to emergency supplies and essential services. However, as we also note on that page, Butte had not established agreements for transportation resources to assist during evacuations. Additionally, although accessible showers are an important resource for people with disabilities in emergency shelters, Butte has not prearranged for this resource, as we state on page 42, and struggled to obtain showers during the Camp Fire. Butte makes a general assertion that certain resources are not available in the county. If true, this assertion would make it even more important for Butte to prearrange agreements to obtain those resources, regardless of whether it would need to do so with vendors from outside of its immediate area. Finally, Butte's suggestion that it cannot take proactive steps to correct a shortfall of shelter supplies stands in contrast to Sonoma's approach. We note on page 45 that Sonoma has taken steps to directly purchase shelter supplies, including accessible showers. (9)

We are glad that Butte indicates its willingness to use a variety of available data to assess the needs in its community. However, Butte's response suggests that this would merely continue an existing practice. As we note on pages 19 through 21, Butte has not conducted adequate assessments of its community to identify those with access and functional needs, or used existing county data in the development of its emergency plans. As stated on page 19 (10)

of the report, FEMA warns that failing to do so may lead to false planning assumptions, ineffective courses of action, and inaccurate resource calculations.

(11) As we note on page 17, Butte provided this plan after we sent the draft report to Butte for its final comment, and we will review the extent to which the plan incorporates best practices and addresses access and functional needs as part of our post-audit follow-up process.

(12) Because Butte included this statement in its discussion of changes it intends to make to its evacuation planning, we believe that Butte is referring to its outdated evacuation plan, not its all-hazard mitigation plan.

(13) Butte's statements suggest that it does not understand the best practices related to tailoring its emergency plans to its own community. It describes its use of various sources of information available regarding people with potential access and functional needs in its community. Although in its response it calls its use of this information pre-planning, Butte is actually referring to the incident response planning that a local jurisdiction does once it is actively responding to an emergency situation. This is wholly different than the best practice of assessing community needs in advance of a disaster.

As we indicate on page 19, and as we discussed with staff at Butte several times during our audit, FEMA recommends that, prior to a disaster, local jurisdictions conduct demographic assessments of their communities to understand the needs that the people in their communities will have during an emergency, which is critical to identifying people with access and functional needs. Local jurisdictions can then use this information in the development of their emergency plans to help ensure that they can meet those needs. As it relates to evacuation planning, we state on page 39 that Butte had not conducted such assessments or used demographic information in its planning to identify the number of people who may need assistance evacuating, which would allow it to better estimate the evacuation resources it should have available.

As we further state on page 40, by not making use of existing county data when planning for emergencies, Butte is missing an opportunity to expedite evacuation assistance when natural disasters occur. Until Butte assesses the needs of its community and uses the information it obtains in the development of its emergency plans, it risks encountering the problems that FEMA warns can happen when jurisdictions do not base their emergency planning on its community's demographics—false planning assumptions, ineffective courses of action, and inaccurate resource calculations.

We are glad that Butte intends to implement our recommendation that it follow best practices related to developing agreements with transportation providers. As part of implementing this best practice, it will be important that Butte assess how many people within its jurisdiction may need evacuation assistance, as well as the transportation resources that agreements with transportation providers will make available so that it can determine whether those resources will be sufficient. (14)

Butte's inaccurately portrays its sheltering plan and assessments of shelter facilities. As we discuss on page 18, Butte's sheltering plan is significantly outdated. Additionally, during our audit Butte provided a list of 100 shelter sites but it had only completed assessments for three sites to determine whether they were accessible to people with disabilities, and the assessments were completed in 2007. Butte's director of employment and social services stated that Butte intends to establish agreements with more shelter locations in the next year, and will include completed access and functional needs assessments for those locations. Until it does so, Butte will remain underprepared to address access and functional needs in its emergency shelters. (15)

To the extent that Butte has historical data from multiple disasters regarding how many people may seek shelter, including how many may have access and functional needs, it should incorporate that into its planning as contemplated by FEMA best practices. As we describe on page 19, those best practices indicate that local jurisdictions should conduct demographic assessments to know the demographic profile of their communities and understand the type of assistance that their various populations may require during a disaster. However, as we further note on that page, Butte had not performed such assessments. Butte further indicates in its response that it intends to continue its use of a planning tool to calculate shelter estimations and resources. As we note on page 42, FEMA states that a community's demographics can have a profound effect on shelter operations. Therefore, Butte should not rely on generalized estimates when planning for resources to support the people in its community who seek shelter. (16)

Butte's stated plan will not address the problem it has with outdated emergency plans or our recommendation. As noted in several places in our report, Butte has not updated its emergency plans since 2011. The time since its last update significantly exceeds FEMA's recommendation to update emergency plans every two years and the five-year interval within which the State is required to update its emergency plan. As we note on page 18, FEMA states that outdated plans can cause setbacks for local jurisdictions during an emergency because of old information, ineffective procedures, incorrect role assignments, and (17)

outdated laws. Because of the importance of keeping these plans up-to-date and because we recognize that many interests compete for local resources, we recommend that Butte place a priority on updating its plans regularly by adopting a requirement to do so in a county ordinance. Further, Butte demonstrated that it has the ability to update its plans while also balancing other important disaster recovery activities when in October 2019, while recovering from the Camp Fire, it updated its alert and warning plan.

(18) Butte claims to have taken various preparedness actions for which it states that it has no documentation. None of these actions would change the veracity of our findings or the conclusions that we have made, including that, as we state on page 15, Butte is not as prepared as it could be to protect its residents during future natural disasters, including people with access and functional needs, because it has not followed key practices for emergency planning.

(19) Our conclusion that Butte has not adequately followed best practices for emergency planning is not based on assumptions, nor is it based solely on the fact that Butte does not have an updated emergency operations plan, or on Butte's lack of documentation of its response procedures and practices. Our conclusion is based on substantial evidence that Butte has not implemented best practices that FEMA identifies as important for effectively responding to disasters. Although as we discuss on page 18 that it is problematic that Butte has not updated its emergency plans for many years, it is also problematic that Butte has not adequately assessed the needs of its community to inform its emergency planning, has not prearranged key resources to protect and support people with access and functional needs during emergencies, and has not adequately involved people with access and functional needs in emergency planning. We first discuss those issues on pages 20, 21, and 23, respectively.

(20) Butte's response lists several stakeholder entities and groups with which it states it collaborated during emergency planning. However, as we note on page 24, Butte could not provide evidence of its involvement of representatives of people with access and functional needs, including community organizations, in emergency planning. We further note on page 25 that Butte's description for how it involved those representatives falls short of best practices for involving people with access and functional needs in planning. Until it adequately involves them in emergency planning, Butte will continue to miss an opportunity to learn what individuals in its community need during natural disasters and how it can prepare to meet those needs.

Butte describes steps that it took in the development of its 2011 evacuation plan. However, as we note on page 37, that plan is significantly outdated, does not align with all-hazards evacuation planning best practices, and does not address how Butte plans to support residents with access and functional needs during an evacuation. Further, Butte asserts that part of its planning effort included collaboration with other agencies to develop evacuation zones and routes. However, those zones and routes are not mentioned in Butte's evacuation plan, which may represent yet another shortcoming of Butte's outdated plan. (21)

Butte misrepresents our conclusions. Our report does not say that resources are not available. Rather, we conclude that Butte has not adequately implemented best practices for ensuring the availability of critical resources during natural disasters, including supplies that are important for supporting people with access and functional needs. As we describe beginning on page 21, FEMA guidance states that during the planning process, local jurisdictions should conduct assessments of the resources that they will need during disasters and identify how they will obtain those resources, for example, by developing memoranda of understanding with suppliers. The state plan says that public-private partnership agreements can provide for quick access to emergency supplies and essential services. However, as we note on page 21, although Butte has prearranged for many shelter supplies, it has not prearranged transportation agreements for providing evacuation assistance. Similarly, as we describe on page 44, it has not prearranged to obtain accessible showers. Both of those resources are critical to support people with access and functional needs during disasters, and we describe, on pages 35 and 42, how Butte struggled to obtain those resources during the Camp Fire. (22)

Butte claims to have prearrangements for buses and paratransit buses for evacuations; however, it does not. As Butte acknowledges in its response on page 76, and in our report on page 38, Butte lacks agreements for transportation resources for providing evacuation assistance. (23)

Our report does not require clarification. In its full context it is clear in our report that Butte does not have prearranged agreements to obtain transportation resources. Further, we state clearly on page 39 that Butte has not conducted assessments of its community to determine the number of people who may need evacuation assistance. As a result, Butte cannot know whether the transportation resources it states it knows about will be sufficient to provide evacuation assistance to the people in its community who will need it during a natural disaster. (24)

(25) Contrary to Butte's statement, our report makes no "assertion" about Butte's preparation to alert and warn its residents in advance of the Camp Fire. Instead we based our conclusion that Butte was not as prepared as it could have been on the documentation we reviewed—including Butte's outdated alert and warning plan, which makes no mention of a major federal alerting system—and the confirmed statements from responsible staff at Butte—who agreed that the county had not developed pre-scripted message templates and that doing so would have helped Butte better adhere to best practices during its response to the Camp Fire. Additionally, contrary to Butte's stated belief, our conclusion does take into account no-notice events. The best practices we describe, including developing message templates in advance of a natural disaster, are designed to enhance a local jurisdiction's ability to quickly send alert and warning messages during no-notice events. Further, as we note on page 19, advance planning improves a local jurisdiction's ability to effectively manage response operations in the face of the complexity and uncertainty inherent in natural disasters As we state on page 29, by not implementing these best practices, Butte impaired its ability to effectively warn its residents of the impending danger from the Camp Fire.

(26) Butte's statement is inaccurate. On page 29 we note that Butte asserted that it used multiple methods for alerting and warning people during the Camp Fire, and on page 30 we acknowledge that Butte used methods such as email and social media. However, we also note that none of those methods have the ability to reach as many people as quickly as WEA messages, which are designed to reach all cell phones in an evacuation area.

(27) Butte did not send WEA messages during the Camp Fire, which we note on page 29. As we describe on page 31, Butte asserted that it attempted to send a WEA message, but the message failed to send through its software program. However, as we further state on page 31, Butte did not follow FEMA guidance to test its software to ensure that it was functional before a natural disaster. The WEA messages that Butte refers to that it subsequently sent were alert and warning messages to warn residents of flooding that occurred after the Camp Fire.

(28) Butte's incorrectly asserts that our report does not acknowledge that it initiated messages to landline phones. On page 29 we state that Butte issued emergency messages through its local emergency alert and warning systems, which uses contact information, such as cell phone numbers, that residents provide, as well as landline contact information that the counties purchase from service providers. We further note that only using this system, and not issuing a WEA message, was inherently problematic given the public's declining use of landlines and the small percentage of people who sign up for cell phone alerts.

We do not criticize Butte for things that occurred during the Camp Fire that were outside of its control. On page 29 we acknowledge that, because of infrastructure challenges and the limitations of any given alerting method, it is unlikely that Butte could have alerted every single person within the evacuation zones. However, Butte's response directs focus away from problems that it could have prevented through better preparation. As we describe beginning on page 28, Butte did not maintain an up-to-date alert and warning plan, did not follow advice from FEMA to test its WEA message capabilities in advance of a disaster, had not pre-scripted messages to ensure they contained the advised information, and had not planned to issue messages in languages other than English. (29)

As a result of these planning deficiencies, Butte was less prepared during the Camp Fire to issue WEA messages, issue messages that contained all advised information, and issue messages in languages other than English. Finally, we disagree with Butte's assertion that best practices would not strengthen response to catastrophic wildfires. The preparation steps we describe in our report would better prepare a county for any disaster, regardless of size and scope. Therefore, it is likely that they would have yielded additional benefit during the Camp Fire. Also, Butte's own adoption, following the Camp Fire, of an updated alert and warning plan and pre-scripted message templates in English and other languages seems to indicate it agrees these are preparedness steps that will enhance its disaster response.

The challenges that Butte describes related to developing alert and warning messages that are limited to 90 characters underscore the importance of developing alert and warning message templates in advance of a disaster. As we indicate on page 32, Butte had not done so before the Camp Fire. Butte appears to recognize the value of preplanning to address the character limit because the message templates that Butte developed during our audit in English, Spanish, and Hmong, which we discuss on page 34 of our report, contain templates for 90 character messages. (30)

Butte indicates that it did not send alert and warning messages in languages other than English because it did not have translation capabilities immediately available during the Camp Fire. However, as we discuss on pages 32 and 34, Butte had not followed best practices stating that local jurisdictions should develop pre-translated message templates. If it had completed this planning step in advance of the Camp Fire, Butte would have been better positioned to send messages in languages other than English. (31)

Butte's suggestion that including the source of its alert and warning messages was not necessary during the Camp Fire is contrary to best practices, which we describe on page 32 and which state that (32)

the response that individuals have to an emergency alert depends in part on the level of trust that they have in the source. Nevertheless, during our audit, Butte developed alert and warning message templates that contain the source of the messages, which indicates that Butte believes there is value to including that information in its emergency communications.

(33) Our report does not state that the county's Special Needs Awareness Program (SNAP) registry only contains IHSS clients. On page 39 we state that Butte's in-home support services (IHSS) agency maintains a list of people who receive IHSS and will require assistance during an evacuation, and that Butte also enables residents with access and functional needs who do not receive IHSS to provide their contact information to the county and indicate that they will need evacuation assistance. It enables residents to do so through the county's SNAP program. We further note on page 39 that, contrary to best practices, Butte did not use this information in the development of its emergency plans.

(34) Butte indicates that it has taken the actions it lists here, though it may lack documentation to support them. Regardless, none of the claims that Butte makes in this list change any of the conclusions that we make in our report. Additionally, many of the actions that Butte describes are actions that it claims to have taken following the Camp Fire or will take in the future. We look forward to reviewing how Butte incorporates these actions, and the best practices from FEMA and Cal OES, into its updated plans during our post-audit follow-up process.

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November 12, 2019

Ms. Elaine M. Howle, CPA*
California State Auditor
621 Capitol Mall
Suite 1200
Sacramento, California 95814

Re: 2019-103 County Emergency Plans-Evacuation of Residents with Access and Functional Needs Audit

Dear Ms. Howle,

Please find enclosed the County of Sonoma's response to the above referenced audit. As you are no doubt aware, Sonoma County has been heavily impacted by various natural disasters in recent years. As such, the County very much appreciates the interest of the Joint Legislative Audit Committee in requesting this audit, and the work performed by the audit team regarding this very important subject matter. The County of Sonoma looks forward to working collaboratively with the California State Legislature, the Governor's Office of Emergency Services, and our residents and local stakeholders to strengthen the emergency planning, preparedness and response throughout the State of California for all its residents and visitors.

Sincerely,

Sheryl Bratton,
County Administrator
County of Sonoma

* California State Auditor's comments begin on page 109.

County of Sonoma Response to 2019-103 County Emergency Plans-Evacuation of Residents with Access and Functional Needs Audit

The County of Sonoma appreciates the opportunity to respond to the ***2019-103 County Emergency Plans-Evacuation of Residents with Access and Functional Needs Audit***, performed by the California State Auditor's Office, at the request of the California Joint Legislative Audit Committee. Meeting the disaster response needs of the most vulnerable in our community must be one of the highest priorities of state and local emergency service planners and this audit shines welcome light on the issue. In particular, the report finds that there are not any state regulatory guidelines or statutes to guide a uniform approach. Further, there are no State resources dedicated to providing effective leadership serving this growing population of Californian's with access or other functional needs (AFN) barriers to effective disaster response. The County of Sonoma agrees that more uniform guidance and support should be provided to county agencies who are the primary jurisdictions responsible for emergency planning, preparedness and response.

In the absence of specific legal requirements, the audit researched relevant best practices as benchmarks that might be applicable to specific situations depending on the factual circumstances.
① We agree that if the best practices are worthy of statewide applications, it would be useful for the State to provide uniform guidance. In Sonoma County, important lessons were learned from responding to the 2017 Sonoma Complex firestorm that erupted late at night on October 8, 2017, and traveled 11 miles in 4 hours, quickly consuming over 5,000 homes and covering more than 170 square miles. Many of these lessons and best practices were applied in the recent Kincade Fire, where despite being hampered by successive PG&E power shutoffs that degraded communication capacity, the County successfully implemented the biggest evacuation and repopulation in Northern California history with a particular focus on AFN populations.

② The Kincade Fire, which burned 77,758 acres, which was larger than any single fire during the Sonoma Complex Fires, was fully contained on November 6, 2019. The Kincade Fire emergency response orchestrated the evacuation and repopulation of almost 200,000 residents. This successful evacuation was responsible, in part, for no loss of life during the disaster.

③ Sonoma County is proud of its efforts to meet the needs of our AFN population during the recent disaster, which showed implementation of applicable best practices and lessons learned. As part of that effort, the County also sheltered approximately 3,400 residents, with a high percentage having access or functional needs. Persons coming to the shelter were screened by the Human Services Department Functional Assessment Service Teams (FAST), who assessed individuals to ensure their special needs were addressed. In addition, the County assisted with the evacuations of two hospitals and at least four residential care facilities. Many of these elderly care facility residents were accommodated at the County evacuation shelters.

In addition, both before and during the Kincade Fire, Sonoma County was subject to repeat and extended PG&E power shutoff events involving over 250,000 residents, in which special outreach was conducted to AFN populations. The County has 6,232 In-Home Supportive Service (IHSS) clients who represent many of the most vulnerable members of the community. Prior to the power shutoffs and fire, the County Human Services Department worked with the IHSS clients and caretakers to develop emergency response individualized preparedness plans. During the

emergencies, social workers made individual contacts to 2,748 clients identified as Critical, Urgent and Moderate need. These contacts helped ensure that clients in the evacuation area had means to leave and that individuals had plans in place to cope with the power shutoffs. In cases where the clients were in distress, social workers were dispatched to the home to provide aid. In addition, outreach was also made to 463 PG&E medical baseline customers who the utility was unable to reach to provide similar support as well as to federal Department of Health and Human Services emPower clients.

Examples of actions taken as a result of this outreach included a person from the PG&E Medical Baseline list, who the utility did not contact, who had energy dependence regarding oxygen needs and was in distress. County social workers contacted a local medical supplier for the individual and arranged to have replacement tanks delivered. A second example was a senior citizen who was on both the medical baseline and IHSS list and was a breast cancer survivor who used a nebulizer and relied on a CPAP machine at night. She reported not having enough food and couldn't get her car out of the garage due to having an electric garage opener. The Human Services Department Functional Assessment Service Team (FAST) member coordinated with the Disability Services and Legal Center (DSLC) to get the individual a backup battery, deliver food and water, and unlatch their garage door in the event they needed to evacuate their home.

The Kincade emergency response efforts have received praise by both Cal Fire and Cal OES. These vastly different outcomes in the two firestorm events are not only attributable to the brave and heroic firefighters who battled the fire but also to the efforts by Sonoma County and its residents to be better prepared to respond to a natural disaster. We know each event is different and brings its own lessons and best practices that can be incorporated into future planning.

The successful response to the Kincade Fire was the result of intensive efforts to improve readiness. Before October 2017, the County of Sonoma was prepared to respond to natural disasters, likely better than most. Since October 2017, the most significant thing learned from the Sonoma Complex Fires is that we, local governments and residents, can never be prepared enough. Based on the experiences of the Sonoma Complex Fires and the 2019 Winter Storms and Flooding, County staff and allied stakeholders have worked tirelessly to increase the capacity of our residents and communities to respond to future fires and other disasters. In the first year following the fires, most County efforts focused on short-term recovery activities and assessing the response. The second year was characterized by a shift to long-term recovery activities as well as implementing changes in order to be better prepared for future disasters. ④

An important product of these efforts was that the Sonoma County Board of Supervisors adopted Sonoma County Recovery and Resilience Framework, as well as a specific program to test and improve the County's Alert and Warning program and Emergency Operations Center (EOC) functions. For example, in the recent Kincade Fire, the successful evacuation of over 190,000 people was accomplished by coordinated alert and warning messages sent in both English and Spanish through the sending of 15 Wireless Emergency Alerts, 26 SoCo Alerts, the first ever use of the NOAA Weather radio system west of the Rocky Mountains, Nixle messages, and the use of Hi/Lo warning sirens, all of which directed recipients to the real time posting of evacuation zones on the County's Emergency website, which received over 2 million views. The response to the Kincade Fire was not reviewed in the audit. ②

While identifying and overcoming limitations in alert and warning systems has been a major area of focus, other important improvements have been implemented since the October 2017 Sonoma Complex Fires to its emergency planning, preparedness and response efforts. These actions include:

- Established an innovative comprehensive Alert and Warning Program by:
  - Establishing a new Alert & Warning Program, including the use of the Wireless Emergency Alert (WEA) system.
  - Hiring two dedicated staff for managing the program and issuing warnings – the highest level per capita staffing in the state.
  - Maximizing system capabilities by expanding access and streamlining activation procedures.
  - Integrating and implementing concurrent Spanish messaging.
  - Conducting real-world warning systems exercises in 2018 & 2019 including the first use of WEA live warning codes in the western United States.
  - Expanding public outreach and education.
  - Expanded and trained additional staff as system activators.
  - Establishing a standing Alert & Warning Committee consisting of representatives from local government, public safety, and community groups countywide.
  - Implemented new systems: Hi/Lo sirens on Sheriff's patrol cars to assist with evacuations and the NOAA Weather Radio for issuing non-weather emergency alerts.
  - Contributed to State and Federal warning policies and guidance.
  - Increasing SoCoAlert subscribers by 200%.
- Worked with local communities to identify hazards, risks, and mitigation strategies, including evacuation routes.
- Developed a community evacuation planning and exercise program and conducted two full-scale community evacuation drills in partnership with local neighborhood groups.
- Supported the development of over a dozen local Communities Organized to Prepare for Emergencies (COPE) groups that are meeting monthly to develop and enhance their individual and neighborhood disaster response capabilities.
- Significantly expanded and enhanced the 2-1-1 System and emergency response capabilities.
- Facilitated construction hardening techniques appropriate for wildfire urban interfaces and seismic retrofits for rebuilding and for existing homes through education and grant programs.
- Worked with private utility providers on solutions related to hardening infrastructure and on coping with destroyed utilities in a disaster, including undergrounding where appropriate and necessary.
- Helped property owners navigate vegetation management opportunities through partnerships with Fire Safe Sonoma and similar programs.
- Continued to advocate for substantive changes to insurance regulations.
- Implemented Community Awareness strategies, such as recent mailers on Watershed Protection and Defensible Space.
- Developed an enhanced vegetation management program by:

  - Authorized $900,000 for the Expanded Fuels Reduction and Landscape Resiliency Campaign;
  - Provided $375,000-400,000 for proactive vegetation management inspections for Spring 2020 into Fall 2020;
  - Provided $80,000-100,000 to conduct abatement for non-compliance for Spring 2020 into Fall 2020;
  - Hired a Registered Professional Forester to support permitting and compliance requirements;
  - In conjunction with Fire Safe Sonoma, finalized projects, key deliverables and metrics based on the County's proposed investment for community education and engagement;
  - Held internal meetings with Sonoma County Departments and other agencies to develop & coordinate systems to ensure collaboration between departments regarding fuel projects;
  - Full program funding to be completed by end of January 2020; and
  - Inspected 2,739 parcels.
- Implemented a dynamic-scaling website platform (SoCoEmergency.org) to provide emergency preparedness and real-time incident information to residents and visitors in both English and Spanish.
- Partnered with the Sonoma County Water Agency and PG&E to install nine Fire Watch cameras throughout the County.
- Allocated $1M over two years to support increased county-wide staffing by local fire agencies during periods of increased fire danger including all Red Flag Warnings.
- Expanded a Staff Development program to better train County employees in disaster response.
- Developed a comprehensive emergency response plan for Electrical System Shutoffs – the first in the state - and supported increased planning coordination for jurisdictions across the state.
- Developed the following plans:
  - County Continuity of Operations Plan (COOP);
  - Human Resources: Learning Management System (LMS);
  - Staff Wellness Benefits for Disaster Preparedness;
  - Functional Assessment Support Teams (FAST);
  - Fairgrounds animal evacuation and supplies; and
  - County Board of Supervisor's Guide to Emergency Operations.
- Applied for the following grants to enhance emergency planning, preparedness and response:
  - Hazard Mitigation Grant Program (HMGP).
  - Pre-Disaster Hazard Mitigation Grant Program (PDM).
  - Community Development Block Grant –Disaster Recovery (CDGB-DR) Unmet Needs.

The list above is a sample of the accomplishments the County of Sonoma has achieved in improving its emergency response capabilities in the two years since the Sonoma Complex Fires. During the recent October 2019 Kincade Wildfire – the largest in the County's history – and the ②

concurrent PG&E power shutoff to 260,000 residents, the County demonstrated significant capabilities including:

- Successful use of multiple Alert & Warning systems to issue dozens of emergency warnings in both English and Spanish. This included the Wireless Emergency Alert (WEA) system (15 activations), Emergency Alerts System (EAS), SoCoAlert subscriber system (26 activations), law enforcement patrol car Hi/Lo sirens and Nixle as well as the NOAA Weather Radio system – the first such use for a non-weather emergency in the western United States.
- The successful evacuation of over 190,000 residents – the largest single-county evacuation in recent Northern California history.
- Established and supported nine shelters for over 3,400 individuals as well as pets and livestock.
- Staff made provisions for contacting and preparing to evacuate hundreds of individuals without housing from areas threatened by the fire.
- Staff supported evacuation and resident care of four care and shelter facilities as well as two major hospitals.
- The real-time incident status map addressed both the fire and the PG&E power shutoff hazards and was viewed more than 9 million times.
- All County communications for SoCoAlert, Wireless Emergency Alerts, EAS, SoCoEmergency.org, and social media were produced in English and Spanish, with Spanish translation provided by bilingual Sonoma County employees.
- As stated above, staff contacted thousands of In-Home Supportive Services clients, PG&E Medical Baseline customers and persons on the Medicaid Empower lists to confirm their plans for the power shutoff and Kincade Fire evacuations and to determine if evacuation assistance or other assistance was needed.
- Emergency information on SoCoEmergency.org was displayed side-by-side in Spanish and English.
    - Through the height of the emergency, SoCoEmergency.org was viewed 2 million times. Of those 2 million views, 80,500 thousand views were of Spanish content. The views were generated by 519,000 unique users, 18,000 of which were Spanish speaking. By way of context, Sonoma County's population is 504,000.
- During emergency response, the County shared bilingual information on Facebook, Twitter, and Nextdoor. Facebook was updated on average 1.2 times per hour, and had 315,000 engagements, while Twitter was updated 1.4 times per hour and saw 2 million impressions.
- 2-1-1 provided bilingual assistance via phone calls and text messages, with 4,540 contacts.

As stated above, the County recognizes that while much has been accomplished, more must be done. We look forward to reviewing the full audit report, including recommendations for guidance, assistance, establishment of state standards, and the provision of funding and other resources to assist California counties with providing the best emergency response services available. The County of Sonoma stands ready to be partners with the Legislature, Cal OES, Cal

⑦

Fire, other counties and local governments, stakeholders, and most importantly, the residents of Sonoma County, to improve local emergency planning, preparedness and response.

Sonoma County's Response to the Audit Report's Recommendations

Recommendation No. 1:

To best prepare and care for people with access and functional needs, Sonoma should revise its emergency plans by following the best practices identified in the report. Sonoma should begin implementing these practices as soon as possible. By no later than March 2020, Sonoma should develop a schedule for completing updates to its emergency plans.

County Response to Recommendation No. 1:

Sonoma County will implement the recommendation to update emergency plans by March 2020 and looks forward to including additional statewide adopted standards in serving AFN and other vulnerable populations.

Recommendation No. 2:

To ensure that it maintains updated emergency plans that are consistent with current best practices, Sonoma should adopt ordinances establishing requirements for the frequency with which it must update its emergency plans and should set that frequency at no greater than five (5) years.

County Response to Recommendation No. 2:

This recommendation will be implemented by March 2020.

Recommendation No. 3:

To ensure that its emergency planning efforts more fully account for people with access and functional needs in the future, Sonoma should adopt ordinances that require its county emergency manager to do the following during each update to its emergency plans:

- When planning to protect people with access and functional needs, adhere to the best practices and guidance that FEMA, Cal OES and other relevant authorities have issued.
- Report publicly to the Board of Supervisors during emergency planning about the steps they have taken to address access and functional needs.
- Consult periodically with a committee of community groups that represent people with a variety of access and functional needs. Further, Sonoma should require that representatives of the community groups committee present to the Board of Supervisors their review of the adequacy of the emergency plans.

County Response to Recommendation No. 3:

The County's response to the Kincade Fire demonstrates that much of the substance of this recommendation has already been implemented. The County of Sonoma does intend to refine its policies to include adoption of applicable guidance and FEMA, Cal OES and other relevant best

practices. The County looks forward to incorporating statewide standards into its updated emergency plans and working with the State as a partner in developing these important guidelines.

The County of Sonoma will adopt a policy that the Director of Emergency Management report publicly to the Board of Supervisors during emergency planning about the steps taken to address access and functional needs.

The County of Sonoma does intend to continue to implement its policy that the County will consult periodically with a committee of community groups that represent people with a variety of access and functional needs and to request that representatives of the community groups committee present to the Board of Supervisors their review of the adequacy of the emergency plans.

The County of Sonoma does not agree with the recommended process for implementing the recommendations. Best practices, by definition, are reliant upon the specific facts and circumstances of a situation and formalizing these steps into local law does not create the type of flexibility needed in responding or planning for a disaster response. Instead, the Board of Supervisors will adopt policies that implement the above which will provide a better mechanism to improve and expand upon them as state standards and best practices change, rather than more formalized and time intensive amendments to local ordinances. ⑧

The County intends to adopt the policies stated above by March 2020.

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM SONOMA COUNTY

To provide clarity and perspective, we are commenting on Sonoma's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Sonoma's suggestion that the best practices we applied as criteria in our review might only be applicable to specific emergency situations is inaccurate. As we state on page 15, FEMA and other emergency management authorities have published best practices that they advise emergency management agencies to follow so that they develop the best possible emergency plans. Included in these best practices are having specific plans for critical emergency functions and ensuring that those plans address the needs of the whole community, including people with access and functional needs. FEMA and the other organizations designed these best practices to be applicable to all hazards, including catastrophic incidents like wildfires, and directs local jurisdictions to tailor their plans to their own communities and needs. Therefore, we did not measure Sonoma against any best practices that were inappropriate or inapplicable to the emergency situations it has already faced or could potentially face in the future. ①

Sonoma describes its response to the Kincade Fire, which we did not review because it occurred while we were finalizing our audit report for publication. Accordingly, we have no assessment on the degree to which Sonoma's response to that disaster was adequate or influenced by planning steps it had taken in advance of the fire. ②

Sonoma appears to point to its response to the Kincade Fire as evidence that it has addressed best practices for planning and preparedness. As we state on pages 15 and 16, FEMA guidance directs local jurisdictions to develop plans for alert and warning, evacuation, and sheltering, all of which should contain strategies for how the jurisdiction will assist people with access and functional needs. However, as we state on page 16, we found that Sonoma does not have these plans. Therefore, Sonoma's asserted success during the Kincade Fire does not modify our conclusion that Sonoma has not followed best practices and done all it can to prepare to support people with access and functional needs. Additionally, as Sonoma indicates in its response on page 101, it should ensure that it develops plans informed by lessons learned from the disasters it has experienced to enable it to be better prepared to deal with future disasters. ③

④ Despite its suggestion to the contrary, Sonoma was not adequately prepared to respond to natural disasters before the Sonoma Complex Fires in October 2017. Sonoma's response is contradictory to the after-action report it published after the Sonoma Complex Fires, which we describe on page 37. The after-action report notes that the county had experienced a large number of natural disasters before the 2017 fires and that much of Sonoma's preparedness efforts had been designed to be prepared for similarly sized disasters. Sonoma's report concluded that these past experiences were insufficient in preparing the county for the 2017 fires, which the report states was the most significant disaster in living memory in Sonoma. Further, Sonoma's response lists several improvements to its emergency planning and response capabilities that the county undertook after the Sonoma Complex Fires, thereby acknowledging improvements were needed. We look forward to reviewing its progress in addressing emergency planning best practices during our post-audit follow-up process.

⑤ Sonoma lists actions it has taken to improve its alert and warning program since the Sonoma Complex Fires. However, even though Sonoma developed a draft alert and warning plan in August 2018, it still has not adopted a finalized alert and warning plan. Further, as we describe on page 23, best practices from FEMA and Cal OES suggest that emergency management agencies should involve individuals with a variety of access and functional needs and local community organizations in all aspects of the emergency planning process because those individuals understand what they will need during disasters. However, as we indicate on page 26, Sonoma has not done so when developing its draft alert and warning plan. In its current form, Sonoma's draft alert and warning does not include strategies for how it will reach its residents who are deaf or hard of hearing during an emergency. Therefore, until it includes individuals with access and functional needs in its planning process, Sonoma risks overlooking the planning gaps that exist related to warning its whole community.

⑥ We acknowledge on page 37 that Sonoma is in the process of developing additional evacuation plans. However, the FEMA guidance we describe on page 36 states that counties should develop all-hazard evacuation plans that broadly apply to a wide range of emergencies, including different types of natural disasters, and should include provisions for evacuating individuals with access and functional needs. As we discuss on page 37, Sonoma did not have an all-hazard evacuation plan and its hazard-specific plans did not contain strategies for how the county planned to address residents' access and functional needs during evacuations. To better ensure that it has considered evacuation needs for the whole community and captured the strategies to accommodate these

needs in an all-hazard evacuation plan, Sonoma will need to include representatives of people with access and functional needs in its planning efforts.

Consistent with the confidentiality restrictions of an ongoing audit that state law mandates, we did not share our findings or conclusions about other entities we reviewed during the course of our audit with Sonoma. Therefore, Sonoma's response includes its assumptions about the results of the rest of our review. Contrary to Sonoma's assumption, our report does not contain a recommendation to fund counties so they can implement best practices from FEMA and Cal OES. Specific to Sonoma, there are two key reasons we do not make such a recommendation. First, as we describe on page 22, the director of emergency management could not provide a formal estimate for how much it would cost the county to implement the best practices. Second, as we explain on pages 21 and 22, Sonoma developed and approved a recovery and resiliency framework, which includes actions that overlap with some of the best practices that we reviewed and describe in our report. That framework indicates Sonoma has already planned to incur many of the costs associated with emergency planning best practices, making a recommendation for State funding unnecessary. ⑦

Our recommendation that Sonoma adopt county ordinances requiring it to implement best practices when developing emergency plans does not create inflexibility, as Sonoma suggests. We did not recommend that Sonoma codify the specific best practice language we include in Figure 11 on page 50. Instead, we recommend that Sonoma adopt a broad requirement that it follow best practices when planning for emergencies. We specifically recommended Sonoma use a local ordinance because of the importance of these practices and the results of our review which show that Sonoma has not historically followed these practices. Although we acknowledge that Sonoma plans to commit to these actions through a policy, county ordinances are a stronger and more appropriate commitment to the best possible emergency planning because it makes that commitment a legal requirement. ⑧

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October 30, 2019

Ms. Elaine M. Howle*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Howle,

The Ventura County Sheriff's Office of Emergency Services, Ventura County Fire Protection District, Human Services Agency, Public Health Department, Emergency Medical Services Agency and County Executive Office appreciate the State Auditor's review of the County's emergency plans related to the safe and efficient evacuation of residents with disability, access and functional needs (DAFN). However, we feel that the report does not adequately reflect many of the proactive actions and steps we have taken to prepare and respond to unprecedented and significant disasters, as well as the overwhelmingly successful outcomes achieved. Specifically, during the Thomas, Hill, and Woolsey Fires, the safe and successful evacuation of nearly 200,000 individuals, sheltering of hundreds from our communities, and, no fatalities attributable to potential access and functional need planning gaps, as noted on page 17 of the draft audit report. ① ②③

Still, we appreciate the work performed by the California State Auditor's Office in preparing this report and welcome the opportunity to further enhance our planning and response efforts to best meet the needs of all members in the communities we serve. We acknowledge that the County should involve the DAFN population more in our emergency planning efforts, and, though we believe a nimble, flexible evacuation response has proven more effective, the County should have a written plan that describes this process and, as was previously acknowledged and addressed during the Thomas Fire, our emergency website in Spanish should have been executed with live translation (instead of Google Translate) and VC Alerts should have been sent in Spanish from the beginning.

The State Auditor's Office Report (Emergency Planning 2019-103) underscores the importance of planning and preparing to meet the needs of some of the most vulnerable in our communities and we share in this understanding, as well as the goal of improving efforts in this area. In fact, the culture of continuous process and service improvement that is a core value for us in Ventura County has resulted in some of the best possible outcomes in responding to the recent disasters we have faced. The Thomas Fire in December 2017, which was the largest wildfire in Ventura County and California history at the time, resulted in the evacuation of nearly 100,000 members of our communities with no loss of life associated with disability, access and functional needs planning efforts. ②

In the following response, we first provide some background with respect to the disasters analyzed as part of the audit, as well as the results of our planning and response efforts for the report. Additionally, we share our conclusions with recommendations contained in the report and highlight efforts already underway or completed to improve upon the DAFN components of our planning and response efforts.

* California State Auditor's comments begin on page 127.

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

④ **The Thomas Fire, Borderline, Hill and Woolsey Disasters**

The Thomas Fire occurred on December 4, 2017. This fire was not a normal fire, nor was it a normal disaster; instead it was unlike anything anyone had ever seen in the history of the County. As a result of seven years of drought, vegetation in the hills surrounding Ventura County was exceptionally dry and had the lowest live fuel moistures that could be recalled. The winds that materialized were beyond significant and the relative humidity was in the single digits.

A few days prior to the fire, a strong Santa Ana weather pattern was beginning to form, and County emergency service providers were paying close attention. On December 2, 2017, staffing augmentations were identified for December 3-5 in anticipation of the increased risk. Ventura County Fire Department staffing was augmented, or as Cal OES now refers to it, prepositioned, on December 3 at a moderate level, then on December 4 at a very high level. (The prepositioned staffing on December 4 before the Thomas Fire started was 87% higher than regular daily staffing.) Not only were more emergency apparatus staffed, our preparation also included additional dispatchers for the communications center. A fire department conference call was held on December 3 to coordinate for the red flag wind event over the next 24 hours. On December 4 the Ventura County Sheriff's Office of Emergency Services (OES) coordinated an Operational Area conference call to discuss the elevated fire weather and countywide preparedness.

When the Thomas Fire started the evening of December 4, the County was well prepared. The speed at which the fire moved and progressed had never been seen before. Even if the fire department had engines in close proximity to the ignition point of the fire, it is highly unlikely that the fire could have been contained, as its rapid spread was almost instantaneous. Emergency response to the fire was significant and robust. Within the first few hours, fire ground commanders had placed orders for an additional 70 strike teams (350 engines staffed with over 1,500 firefighters). The County quickly recognized that the fire was moving so rapidly that there was not time to wait for the statewide ordering system to fill orders for fire engines. Accordingly, the fire chief and the incident commander both made phone calls to fire chiefs from neighboring agencies outside of the County to send their engines, outside of the normal ordering process. After many years of dealing with the failings of the statewide ordering system, which would theoretically be considered a best practice ordering system, the fire chief gave direction to bypass the system so that Ventura County could have resources on scene more quickly. Thanks to quick decision-making and response from our neighbors, this effort was highly effective and has been repeated many times since.

Additionally, as a result of highly competent fire ground commanders anticipating the fire behavior and its likely path, proper evacuation decisions were made. There was a highly coordinated and seamless evacuation effort between Ventura County Fire Department, Ventura County Sheriff and Ventura County OES all working together at the command post. This expedient, purposeful and well-coordinated
② evacuation effort resulted in an outcome of zero fatalities that could be attributed to evacuation
⑤ planning or a lack thereof. It is difficult to develop an evacuation plan that addresses all evacuation scenarios; however, the agile process that the County followed allowed us to successfully navigate this incredibly dynamic and fast-moving fire. In our collective memories, we cannot recall any time when fire engines had to focus their efforts on actively evacuating civilians instead of protecting homes from the

Ventura County Response to
California State Audit Report 2019-103 Emergency Planning

fire. The primary point being, the Thomas Fire was not an ordinary fire that, at the time, could have been predicted, anticipated or prepared for in the way that hindsight prepares us for responding to an emergent incident after the fact.

Ventura County's proactive approach to these emergency incidents also resulted in a request to FEMA in the form of a Fire Management Assistance Grant (FMAG) being applied for within the first few hours of the fire. This request was coordinated with the Governor's Office of Emergency Services.

As a result of the successes with the Thomas Fire, the Ventura County Fire Chief was invited to Sacramento to testify on two occasions regarding the County's best practices. We highlighted the prepositioning of resources in advance of the start of the fire and the fact that it saved lives. We also highlighted the fact that, by going around the normal ordering process, we were able to get resources into the City of Ventura much more quickly and, as a result, saved homes and likely saved lives. At the time, this was not done in other fire responses throughout the state.

The Chief's testimony and significant efforts by the California fire service led to support from the Legislature for a one-time expenditure of $25 million to upgrade technology infrastructure and revamp the statewide ordering system. Additionally, the Legislature allocated one-time funds in the amount of $25 million from the Greenhouse Gas Reduction Fund (GGRF) so that all local government agencies could preposition resources as Ventura County did. Governor Newsom recognized the value of prepositioning resources and has now made the $25 million prepositioning funds a permanent and ongoing part of the state budget. This new program is administered by Cal OES.

Within just eleven short months, Ventura County faced three new catastrophes that would further tested our emergency planning and response efforts and once again demonstrated the extraordinary preparedness of the County, our local government partners, community-based organizations and the remarkable members of the communities of Ventura County. On November 7, 2018, a mass shooter tragically took the lives of 12 individuals at the Borderline Bar and Grill in Thousand Oaks, California and injured nearly a dozen others. Among the victims were Ventura County Sheriff Sergeant Ron Helus who entered the facility to stop the attacker and was fatally wounded during his heroic response. Immediately upon the heels of this tragedy, in less than 24 hours, on November 8, a fast-moving wildfire started in Hill Canyon east of the City of Camarillo and was being driven to the west by the strong winds. The Hill Fire reached Highway 101 in less than 15 minutes, jumped the freeway and briefly threatened the community of Camarillo Springs before burning up and over Conejo Mountain and into the community of Newbury Park. It destroyed five structures there and was eventually contained at about 4,500 acres. But the Hill Fire was just the start.

About 20 minutes after the start of the Hill Fire, at 2:30 p.m., another fire was reported near Woolsey Canyon Road in Simi Valley. The fire quickly became a threat to life and property as it raced towards the City of Thousand Oaks. Evacuations were ordered in the community of Oak Park and, soon after, in Thousand Oaks, then all the way to the Los Angeles County line.

The fire jumped Highway 101, burning into Los Angeles County, triggering more evacuations as it moved toward the coast. Homes were threatened in the cities and communities of Westlake Village, Agoura Hills, Calabasas, Hidden Hills, Bell Canyon and Malibu, as well as homes in the canyons between Highway 101 and the Pacific Coast Highway. More than 90,000 people were under evacuation orders in Ventura County alone and tens of thousands of homes were threatened.

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

The President of the United States and the Governor of California eventually toured the fire area. Emergency declarations by both, a local emergency declaration by the Sheriff and a Public Health Emergency declaration allowed the recovery effort in Ventura County to begin almost immediately. Emergency resources continued to pour into Ventura and Los Angeles counties. The response included 688 fire engines, 41 aircraft (helicopter and fixed-wing), 82 hand crews and 24 bulldozers.

At the peak of the Woolsey Fire, more than 5,000 emergency personnel were assigned to the incident. The fire would consume 96,949 acres – 152 square miles - an area larger than the entire cities of Detroit or Philadelphia. It destroyed 1,643 structures (185 homes in Ventura County) and damaged another 364 (115 in Ventura County). Animal Services sheltered 356 animals including horses, dogs, cats, chickens, rabbits and even three alpacas. Almost 20,000 hotline calls were answered by the Office of Emergency Services. The OES also issued 40 VC Alerts in English and Spanish, three Wireless Emergency Alerts and three Emergency Alert System Messages in addition to door to door, social media, website, and broadcast alert messages.

Ventura County's emergency information website – www.vcemergency.com – had more than two million unique page views during the fires. The site listed current evacuation orders, fire updates, and road and school closures all in both English and Spanish. At one point, both Highway 101 and the Pacific Coast Highway (Highway 1) were closed to civilian traffic.

Despite the unprecedented significance of the Thomas, Hill and Woolsey Fires, Ventura County successfully evacuated over 200,000 people, sheltered hundreds of displaced individuals and worked quickly to connect those impacted with key resources at local assistance centers. Across the Thomas, Hill and Woolsey Fires, there were four civilian casualties, none of which were directly related to emergency planning and response associated with individuals having disability, access and functional needs: two that occurred during debris removal and infrastructure repair activities in the weeks following the fires and two that occurred during private civilian evacuations..

(2)(6)

Considering the magnitude and scale of these events, no significant findings related to the County's response or management of these extraordinary incidents have been identified, following expansive after-action review processes with the exception of language translation and other items noted in this response. Additionally, Ventura County is widely recognized as a County of "best practice" by its peers, having received accolades from response partners from across California for our response to the Thomas Fire.

Even with such demonstrated and proven success using current methodologies to respond and manage natural disasters, the County of Ventura takes pride in being a county of continuous improvement. Following any incident, there are always new lessons learned and opportunities to strengthen existing strategies. Ventura County is quick to recognize these lessons learned and continually strives to implement change for the betterment of the communities we serve. In the following segments, arranged in the order of the key areas of focus of the State Auditor's Report, we provide feedback concerning the recommendations contained in the report and highlight efforts already taken to improve upon the DAFN components of our planning and response efforts.

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

Emergency Plan Development

Audit Recommendation: *Use a diverse planning team, including people with a variety of access and functional needs and community organizations that support them.*

Ventura County has made a significant investment through the years establishing critical relationships with response partners, conducting pre-planning activities, testing pre-planning through exercises and educating the community on what to expect from first responders during an emergency. In the Fall of 2009, the County Board of Supervisors established the Ventura County Emergency Planning Council (EPC), whose purpose is to provide for the preparation and carrying out of plans for the protection of persons and property within the County. With this action, the Board also identified members of the EPC as representatives from the county, cities, business, military, infrastructure/lifelines, including representatives from health care, special districts, colleges/schools, local non-governmental organizations, volunteer organizations active in disasters, and other members-at-large. The EPC reviews and recommends emergency and mutual aid plans and agreements for adoption by the Board. (7)

Prior to this audit report, Ventura County followed what we perceived to be CalOES best practice in the development of a Disability, Access and Functional Needs Plan that addressed preparedness, alert warning, transportation, evacuation and care and sheltering. The plan additionally identifies the primary County, non-profit, non-governmental partners, and for-profit entities that support the DAFN population, as well as the defined and documented role of the DAFN Coordinator embedded within the Ventura County Emergency Operations Center. During the Thomas Fire, the County took a prominent lead to be responsive to community needs. County teams and resources provided satellite outreach and education and attended and led community events and listening sessions to not only educate the community, but to best understand disability, access and functional needs across the impacted areas. (8)

After the Thomas Fire, the County and the American Red Cross sponsored a listening session that invited community groups to learn more about emergency preparedness and how to best support the DAFN populations. Many of these organizations signed up to be American Red Cross volunteers so they could better meet the needs of the DAFN populations they served through general education and awareness.

Also following the Thomas Fire, the County noted that there were legal barriers to sharing information about vulnerable populations, including the DAFN community, between county departments during a disaster event. Potentially life-saving information about the whereabouts of individuals receiving In-Home Supportive Services (IHSS), for example, could not be shared with emergency coordinators and responders to ensure safe evacuation. The County attempted to address this situation by pursuing legislation that would authorize county social services agencies to share basic contact information during emergencies but was ultimately not successful due to privacy concerns. More work is clearly needed in this area to ensure the safety of residents under the County's care. (9)

Through its Health Care Coalition, established in January 2014, the Ventura County Public Health Department regularly engages with community organizations that serve individuals with access and functional needs to provide emergency preparedness education and resources so that they may better serve their clients during an emergency. As part of this engagement process, emergency preparedness resources are continuously provided to these community organizations with the request that they share and educate their clients on access and utilization of such resources.

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

The audit concluded that there was insufficient community engagement in the development of the emergency plans and recommends using a more diverse planning team, including people with a variety of access and functional needs and community organizations that support them. The County acknowledges that an even more inclusive and diverse engagement of community partners, especially a broader range of individuals with disability, access and functional needs in disaster planning will further strengthen our already successful plans and response efforts. To this end, we intend to add additional
⑩ DAFN representatives to the membership of our EPC and to implement closer coordination with the County Executive Office on planning efforts.

Audit Recommendation: *Conduct demographic assessments to identify how many people have access and functional needs, what those needs are, and where those people are generally located.*

⑪ Gauging the needs of the community is a difficult task since there is no exact methodology for assessing the needs of every member of the population. Using data collected from their clients, the Ventura
⑫ County Human Services Agency developed and manages a Disaster Preparedness Database with demographic data on clients with DAFN's. This Database is activated prior to anticipated events, (such as severe weather conditions) or at the onset of a disaster/emergency event. Activation includes GIS mapping of the Disaster Database overlays with emergency evacuation/impacted areas to determine potential impacts and/or needs of the DAFN population. The County of Ventura is working collectively to expand upon the existing Ventura County Human Services Agency Disaster Database demographic information to include data from several external sources.

Based upon the information obtained from this database, the County will continue to plan and prepare to assist all Ventura County residents with evacuating during an emergency. This evacuation process includes the rapid dissemination of alert and warning messages in multiple languages, assisting with mass transit services, and leveraging any other County resource needed during a time of need.

The County agrees that an expanded demographic assessment that builds upon the existing assessments conducted by the Human Services Agency will serve to further inform planning associated with DAFN needs during a disaster.

Alert & Warning

Audit Recommendation: *Develop alert and warning plans containing strategies to reach all people, including people who have access and functional needs and that ensure that all applicable methods are used to reach individuals.*

The County acknowledges that, during the Thomas Fire, we discovered some translation capabilities that could further be enhanced. These findings were quickly addressed during the emergency and continued to be further expanded and improved upon during and after the event, even up to the present. As an example, shortly after the Thomas Fire, the emergency hotline added the capability to provide telephonic translation for 225 languages using Voiance translation services.

⑬ There is indeed opportunity to further enhance our alert and warning communications, but we disagree that Ventura County did not prepare adequately to warn residents of impending danger from the

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

Wildfire. The many modes of communication utilized were largely supported in multiple languages, not to mention the fact that no lives were lost or adversely impacted as a result of any communications during any of the disasters included in the scope of the state's audit. (14)

Beyond language assistive support, during the Thomas, Hill and Woolsey Fires, a multi-tiered approach was used to disseminate emergency notifications and information to residents. This approach involved the use of both technological (VC Alert, Wireless Emergency Alerts, Emergency Alert System, Nixle, Social Media, Websites) and human resources (Law Enforcement Door-to-Door Notifications, Public Information Officers, Community Liaisons) to communicate emergency information such as evacuation orders/locations, emergency shelters (human & animal), road closures and other pertinent emergency information. The following describes the multi-tiered methods used in further detail:

- **The VC Alert emergency notification system** is a local emergency notification system that can be used to send messages to landline telephones, cellular telephones, TTY/TTD devices, fax, email, and instant messaging services. VC Alert can send both text and recorded voice messages, and the text-to-speech engine is able to send notifications in multiple languages.
- **The Wireless Emergency Alert (WEA) system** is a public safety alerting system that allows emergency notifications to be sent utilizing text messages over commercial cellular infrastructures.
- **The Emergency Alert System (EAS)** is a national public warning system that mandates cable television providers, satellite television providers, satellite digital audio radio services (SDARS) providers, and direct broadcast satellite (DBS) providers to broadcast emergency alerts and warnings.
- **Nixle** allows the Ventura County Sheriff's Office to deliver the news and events as they are occurring to the citizens of Ventura County in a variety of ways. Primarily, notifications can be delivered directly to a cell phone either by an SMS text message or E-mail.
- **VC Emergency** is a public facing website dedicated to disseminating emergency information to the public and the media via the internet.
- **Social media** such as Facebook, twitter and Instagram were used to provide emergency messaging, instructions, and recovery information to both the media and the public.
- **Public Information Officers (PIO)** are designated public safety officials assigned to provide emergency information to the media and public.
- **Door-to-Door Notifications** were conducted by public safety officials from the Ventura County Sheriff's Office and other law enforcement personnel to physically communicate emergency notification and evacuation orders to residents in the impacted areas.
- **Community Liaisons** from the County Executive Office went into the community and disseminated emergency information such as evacuation locations, road closures, shelter locations, where to obtain personal protective equipment, etc.) to non-English speaking advocacy groups (Mixteco Indigena Community Organizing Project & League of United Latin American Citizens).

Continuing the use of our multi-tiered approach to alert and warning, coupled with continuously expanding our understanding of the communication needs of the DAFN community will help sustain the

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

highly effective alert and warning performance we have experienced during the significant disasters we have experienced.

As background, the County has been proactive in developing best practices in the form of plans, policies, procedures and strategies to best alert and warn Ventura County residents of incidents that pose a
(15) threat to health and safety, as demonstrated by the development of an alert and warning plan in 2011 that was approved by the Ventura County Board of Supervisors and entered into formal Memorandum of Understanding agreements (MOUs) with all ten cities in Ventura County. The alert and warning plan outlines industry best practices to send effective and timely emergency notifications to residents during an emergency. This alert and warning plan was last updated in 2017, ensuring Ventura County operated using current industry standard best practices. Ventura County's alert and warning plan was utilized successfully during the Thomas and Woolsey Fires to send over 100 emergency notifications to over 200,000 residents.

In 2018, the California Office of Emergency Services (Cal OES) in partnership with counties throughout the state, began the process of developing the State of California's Alert and Warning Guidelines. Ventura County was an active participant in helping to shape the development of the State's Alert and Warning Guidelines, which was completed in March 2019.

Ventura County is currently in the process of updating the County's Alert and Warning Plan to align with the State's Alert and Warning guidelines document. The Alert and Warning plan will incorporate current industry best practices and local lessons learned from the Thomas and Woolsey Fires.

In support of written alert and warning plans, the County recognizes that clear communication both during emergency and non-emergent events is essential and that communication should extend as far into the community as is reasonably possible in as many ways as possible. For these reasons many of our County agencies currently produce material – both printed and online – in languages other than English. All County websites have translation features. Caseworkers for our Human Services Agency have a real-time, three-way translation service (Stratus Translation software service) that operates through a tablet computer, which enables them to have face-to-face conversations with clients in any language with the translator visible to the client. This same technology was employed at Local Assistance Centers during our recent disasters. The County Executive Office (CEO) acknowledged our communities' needs over a year ago by hiring a full-time, Spanish-speaking Public Information Officer with certified translation abilities. The CEO took this important step as part of a countywide initiative to expand communication with our Spanish-speaking communities. This new position was immediately impactful during the Woolsey Fire, conducting interviews with national Spanish Broadcasters to communicate important emergency information. The Sheriff's Office of Emergency Services utilizes a cadre of Spanish certified translators also serves during emergencies and has additionally engaged a service that can translate documents in one hour or less. The County has developed, and continues to develop further, a cross-agency cadre of translators for Spanish and other languages for use in both emergency and non-emergency situations and maintains relationships with several translation services. Several County agencies and departments that work with underserved communities produce nearly all materials in both English and Spanish. This includes the County's clinic system, Behavioral Health Department, Public Health Department, the Area Agency on Aging and the Human Services Agency.

(16) While not specifically in the context of emergency planning, the County and several of its departments regularly engage with community groups and individuals to hear concerns, share information and resources, and establish relationships of trust. County staff have daily interactions with the community

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

we serve by attending community meetings and events, schools, places of worship and meeting with key community figures. County workers have deep roots, similar ethnic backgrounds, and speak the same language as those we serve and have dedicated themselves to developing trusted relationships with the community and our partners (MICOP, CAUSE, Lideres Campesinas, Proyecto Esperanza, LULAC, One Step a La Vez and various promotoras, just to name a few). County staff provide culturally appropriate services, such as in the Latino community where meeting face-to-face and personal contact is highly effective.

As a result of these community interactions and relationships, during the Thomas Fire, county staff knew the exact organizations and individuals to directly contact when checking in on the needs of those affected in Santa Paula, Ventura and Oxnard. These relationships proved to be effective during the fire when community organizations and community members also knew to directly contact county staff. An example of the importance of these relationships was a request from MICOP who works with a large Mexican indigenous population from Oaxaca that has various dialects and whose native language of Mixteco is neither Spanish nor written. During the Thomas Fire, the CEO Community Liaison had contacted a MICOP representative to share fire information when the representative expressed frustration that a local store had capped the public sale of face masks to individuals and would not sell them in bulk to MICOP, who had planned to distribute the masks to farmworkers and others in the Mixteco community. The CEO Community Liaison immediately contacted the Public Health Director, and he along with his staff, within the hour, delivered face masks to MICOP and United Farmworkers (UFW) for them to distribute. In total, Public Health provided these organizations over 40,000 face masks. These long-running, trusted and personal relationships proved to effectively aid the Spanish-speaking, undocumented and vulnerable members of our community.

During the initial response to the Thomas Fire, public information was primarily distributed by public information officers, the "readyventuracounty" website and the emergency hotline. Each of these methods of information distribution had Spanish translation available. For the Public Information Officers and Hotline, live Spanish speaking translators were available and the "readyventuracounty" website used the "Google Translate" feature, which allowed people to select a variety of languages that directly translates the displayed text. Translation services were provided at all community events and town halls which included the use of wireless translation headphones, including the first Thomas Fire-related event in Ventura on December 9. It is important to note that at the time of the incident, Google translation services on emergency websites were utilized by nearly all emergency operations centers in the state for real time emergency information dissemination in multiple languages, including all of Central and Southern California, and was considered an industry standard. The County recognized this concern with translation and our "readyventuracounty" and "vcemergency" websites were quickly duplicated as actual Spanish text sites by day three of the Thomas Fire. The EOC utilized a certified Spanish translator to update the site in real time during the remainder of the incident. The first bilingual emergency notification/warning was issued via VC Alert on December 14 which was ten days into the incident. All notifications following that were bilingual. Written products, such as press releases, were translated in real time by certified translators or by using the web-based system, One-Hour Translate. ⑰

We agree that alert and warning is one of the most important components of emergency planning and are committed to continually seeking ways to reach all people with critical emergency communications.

Audit Recommendation: *Create a library of pre-scripted messages for each potential hazard that contains the recommended elements for effective messages and that are translated into the languages most commonly used in the community.*

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Ventura County agrees with this recommendation and the acknowledgement in the report that this practice is already being followed.

Evacuation Planning

Audit Recommendation: *Develop an all-hazard evacuation plan, including strategies for providing evacuation assistance to people with access and functional needs.*

Although Ventura County does not presently maintain a universal All Hazards Evacuation Plan, we anticipate formalizing our approach to managing the dynamic evacuation needs of an incident in the form of an evacuation annex to our Emergency Operations Plan.

Over the years, Ventura County has successfully implemented a unique response process that involves immediate coordination between police, fire and emergency management at the scene of an incident. We have found this approach to managing dynamic evacuation scenarios the most effective in terms of flexibility recognizing the one size fits all approach does not work well. Where appropriate, our operational area approach to addressing evacuation needs specific to hazard areas has been to develop, in advance, tactical response guides that are updated on an annual basis, until the hazard subsides. This approach allows stakeholders to ensure these guides are updated regularly and remain consistent with current threat conditions. This "best practice" was implemented by our Operational Area in 2015 following a debris flow threat in Camarillo Springs. Since following this approach, we have successfully been able to evacuate over 200,000 individuals having all manner of needs safely and with remarkably positive outcomes.

Audit Recommendation: *Assess the number and locations of people who will need evacuation assistance. Inventory the county's resources to determine its capability to provide that assistance.*

The County of Ventura is working collectively to expand upon the existing Ventura County Human
⑫ Services Agency Disaster Database demographic information to include data from several outside sources. Based upon the information obtained from this database, the County will continue to plan and prepare to assist all Ventura County residents with evacuating during an emergency. This evacuation process includes the rapid dissemination of alert and warning messages in multiple languages, assisting with mass transit services and para-transit resources as needed, and leveraging any other County resource needed during a time of need.

Audit Recommendation: *Establish agreements with local transit agencies and other sources of accessible transportation to provide evacuation support.*

The County of Ventura maintains several master agreements through the Ventura County General Services Agency Procurement Department for the purposes of establishing transportation services. An
⑱ example of one such contract was transit services from Roadrunner Shuttle that were successfully utilized during the Thomas Fire to transport DAFN members from shelters to the local assistance center.

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In addition to these existing private-sector agreements, numerous Ventura County Agencies are presently engaged with the Ventura County Transportation Commission to complete the Transportation Emergency Preparedness Plan. One of many outcomes anticipated with the completion of this plan is the establishment of MOUs with several transit vendors in our region for the purposes of mass transit during an emergency.

Sheltering

Prior to the Thomas Fire, the County was working with core first responders in the development of a Mass Care and Shelter Plan that included the County's primary partner in emergency sheltering, the American Red Cross. Lessons learned from both the Thomas and Woolsey Fires have helped to better inform this plan that includes recognition of a significant disability, access and functional needs community and the key partners that will be engaged to assist with supporting this community. By incorporating lessons learned from prior incidents, the County also recognizes the need to assist individuals who require communication assistance, specifically those who are deaf or hard of hearing, blind or non-English speaking.

As part of the plan to ensure the rapid identification of community needs following a disaster, the County has trained over 40 functional assessment service team (FAST) workers capable of assessing evacuation shelter conditions. FAST team members work side-by-side with shelter personnel and other emergency response workers to assist in meeting essential functional needs so people can maintain their independence during disasters and emergencies.

Audit Recommendation: *Develop sheltering plans that include strategies for ensuring that shelters are accessible to people with access and functional needs.*

Following the Thomas Fire and prior to the Woolsey Fire, the County of Ventura embarked upon a lengthy planning process to create a comprehensive Mass Care & Shelter Plan. This process is nearing completion and is slated for publication by January of 2020.

Audit Recommendation: *Conduct assessments to determine how many people may seek shelter during natural disasters, how many may have access and functional needs, and what resources the county will need to support them in shelters.*

The County of Ventura has and continues to assess the needs of the community, as it relates to emergency sheltering. Due to the complexity of individual needs and living situations, people moving and people dying, there is no exact method for yielding actionable data. We agree in concept with the recommendation but are concerned that the suggested approach in the report may still not result in sufficient actionable information. The alternative of predetermining who will be impacted by any one incident and what their individual needs are, does not yield a fiscally prudent outcome. Instead, the County of Ventura remains focused on a whole community approach, with a goal of being nimble and adaptable as the situation unfolds. (11)

Audit Recommendation: *Develop agreements with suppliers for necessary equipment and resources to support shelter residents with access and functional needs.*

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The County of Ventura maintains numerous master agreements through the General Services Agency Procurement Department for the purposes of procuring equipment and supplies needed for sheltering
(19) operations. Though existing master agreements for equipment such as showering, bathing and lavatory equipment did not contain DAFN specific terms, they successfully resulted in the supplies ultimately being available for the DAFN population. While much of this equipment is already owned and maintained by the American Red Cross, the County of Ventura and many of our cities are developing plans to purchase additional shelter equipment to enhance sheltering capabilities. It is believed that with the combination of Red Cross, County, City and private-sector purchasing agreements, securing sheltering supplies in a reasonable timeframe is well within our current response capabilities. It should be noted that existing contracts have successfully provided for the needs associated with sheltering and evacuation assistance of the DAFN population during the disasters we have faced. Nonetheless, the
(18)(19) County agrees with this recommendation and welcomes the opportunity to take a second look at our procurement agreements as the audit suggests.

Local Assistance Centers

Audit Recommendation: *Develop a plan to ensure local assistance centers are accessible to people with access and functional needs, including by providing accessible notifications about the center, and communication services at the center for those with limited English proficiency or those who are deaf or hard of hearing.*

Ventura County has and continues to maintain a Local Assistance Center Plan following the Thomas Fire. Despite not having a plan prior to the Thomas Fire, Ventura County successfully stood up a local assistance center in partnership with the City of Ventura, which provided recovery services to victims of the fire with services and representatives from more than 44 different agencies and non-profit organizations. In part those organizations represented services from the Federal, State, and local governments, as well as faith-based organizations, community-based organizations, including State Department for passports, Department of Motor Vehicles, State Public Health - vital records, Disabled American Veterans, American Red Cross, Salvation Army, Social Security Administration, County Assessor, County homeless and housing services and elected officials to name a few. We acknowledge that our after action report indicated that additional Spanish speaking ambassadors could possibly have been beneficial at the local assistance centers but this is in addition to the ample Bi-lingual staff that were available to provide assistance as were linguistic technology aides such as the Stratus Translation service that was available via tablet devices to meet the diverse communication needs that may have presented at the Local Assistance Center. Overall more than 2,500 individuals visited the Local Assistance Center during the period of time it was operational.

We agree with the audit recommendation and Ventura County will continue to enhance the Local Assistance Center Plan. In an effort to adapt to the changing needs of the community, this plan will be reviewed on a regular interval to ensure adequacy on all levels.

County Recommendations

Ventura County Response to California State Audit Report 2019-103 Emergency Planning

Audit Recommendation: *When planning to protect people with access and functional needs, adhere to the best practices and guidance that FEMA, Cal OES and other relevant authorities have issued.*

We are committed to continuous process improvement and in that spirit will continue to pursue best practices when planning to protect people with access and functional needs.

Audit Recommendation: *Report publicly to the boards of supervisors during emergency planning about the steps they have taken to address access and functional needs.*

As has been our practice and as demonstrated by the recent update provided to our Board concerning our Public Safety Power Shutoff efforts related to medical baseline members of our community, we will continue to share emergency planning efforts with our elected supervisors. It should be noted that a member of our Board of Supervisors also serves as the Chairperson for our Emergency Planning Council.

Audit Recommendation: *Consult periodically with a committee of community groups that represent the people with a variety of access and functional needs. Further, Ventura should require that representatives of the community group committees present to the boards of supervisors their review of the adequacy of the emergency plans.*

We will continue to conduct the recommended consultations with our community groups and further expand our efforts in this area.

In Conclusion

We appreciate the State Auditor's Office review of our County Emergency Plans for residents with disability, access and functional needs. Our history of successful planning, partnerships and community outreach has resulted in remarkably positive outcomes in some of the most demanding disasters of our time. Notwithstanding, we welcome the State Auditor's review as it gives us an opportunity to further improve our planning and preparations for the future to the benefit of all in our communities.

Respectfully,

Bill Ayub
Sheriff

Patrick Maynard
Sheriff OES Staff Emergency Manager

Barry Zimmerman
Human Services Agency Director

Mark Lorenzen
Fire Chief

Michael Powers
County Executive Officer

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM VENTURA COUNTY

To provide clarity and perspective, we are commenting on Ventura's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We disagree with Ventura's assertion that our report does not adequately reflect the actions and steps it has taken to prepare for natural disasters. Our report contains adequate and accurate information related to the areas we reviewed, including both the areas of emergency planning best practices to which Ventura has not adhered and the steps Ventura has taken to address best practices. ①

Ventura asserts that, during its recent wildfires, no fatalities were attributable to gaps in its emergency planning and preparedness. As we discuss on page 35, we reach no conclusions as to whether any additional lives would have been saved if the county had planned differently or more fully implemented best practices. ②

During the publication process for the audit report, page numbers shifted. Therefore, the page numbers cited by Ventura in its response do not correspond to the page numbers in the final published audit report. ③

Although Ventura describes its response actions related to multiple disasters, including the Thomas Fire, we focused our review and conclusions on its emergency planning, and how that planning affected its response to the Thomas Fire. ④

Ventura states that it is difficult to develop an evacuation plan that addresses all evacuation scenarios. However, this is not the expectation set in FEMA's guidance documents. In fact, FEMA guidance explains that a plan that tries to cover every conceivable condition or that attempts to address every detail will only frustrate, constrain, and confuse those charged with its implementation. Rather, FEMA specifies that these all-hazard plans should include strategies for both no-notice and forewarned evacuations, with particular consideration given to people with access and functional needs. Therefore, we look forward to reviewing Ventura's progress in addressing our recommendation that it develop an all-hazards evacuation plan that aligns with FEMA's best practices during our post-audit follow-up process. ⑤

⑥ Ventura's reference to four casualties differs from Table 2 on page 13, which states that Ventura suffered five fatalities as a result of natural disasters in the last five years. Ventura's total specifically refers to civilian casualties, whereas our total also includes the loss of one first responder.

⑦ Ventura states that it has involved response partners and community groups in preplanning activities. Our review found that Ventura did not sufficiently include representatives with diverse access and functional needs when developing its emergency plans and we describe this conclusion on pages 24 and 25.

⑧ Ventura's perception that having a standalone plan for access and functional needs was a Cal OES best practice conflicts with direct advice it received from Cal OES as well as Cal OES's guidance. As we explain on page 17, Ventura developed its access and functional needs plan in May 2016 and on page 18 we explain that Cal OES informed Ventura that having a standalone plan was not advisable. Further, the training Cal OES provides on planning for access and functional needs advises against having a separate plan for these needs.

⑨ The assertion that Ventura makes about the access of different county departments to information about vulnerable populations differs from the information it shared with us during our review. Specifically, this assertion contradicts the explanation that Ventura's chief deputy director of human services provided to us—which we describe on pages 39 and 40—that it makes use of data on people with certain access and functional needs once a disaster occurs and that the county asks its IHSS clients to sign waivers to allow her agency to notify law enforcement about their location before the county issues a local emergency order. Further, with respect to IHSS clients, the assertion conflicts with the allowance in state law—an allowance that Ventura knew about during our audit—which specifically states that a county department of social services employee may disclose the name and address of elderly or disabled clients to emergency services personnel in the event of an emergency that necessitates a possible evacuation. Therefore, Ventura's response is contrary to state law and to the statements it made to us during our audit.

⑩ Although there would be some value in adding representatives with access and functional needs to Ventura's emergency planning council, this step would not implement emergency planning best practices or our recommendation. As we explain on page 24, this council is not involved in developing Ventura's emergency plans. Rather, it is responsible for reviewing and adopting Ventura's emergency plans. Best practices from FEMA and Cal OES suggest that emergency management agencies should involve individuals

with a variety of access and functional needs in all aspects of the planning process. By only including these representatives at the review and approval stages of the planning process, Ventura risks that its plans will not adequately address the needs of its whole community.

Ventura misunderstands our recommendation to conduct demographic assessments to better prepare for its community's needs during a natural disaster. We do not recommend that Ventura, or any other county, assess the needs of every member of its population. Rather, as FEMA best practices state, jurisdictions must have an informed estimate of the number and types of individuals with access and functional needs residing in their communities to begin planning. As we describe on page 20, emergency managers should use information compiled from multiple relevant sources—including social service listings and housing programs, among others—when developing an understanding of the number of individuals who have access and functional needs. Using multiple sources enables emergency management agencies to obtain a more precise understanding of the magnitude of the need in their community and of the geographic location or concentration of those needs. These aggregate estimates will allow emergency managers to make more informed decisions about the level of resources they may require during emergencies. (11)

The data included in Ventura's Disaster Preparedness Database is only related to clients of its human services agency. During our review, the chief deputy director explained that this database included IHSS clients and foster children. Ventura has not used this database to assist it in developing its emergency plans, as we explain on page 39. Nonetheless, in its response Ventura indicates that it believes expanded demographic data will help inform its planning. We look forward to reviewing documentation of Ventura's efforts in this area during our post-audit follow-up process. (12)

We stand by our conclusion that, in advance of the Thomas Fire, Ventura did not adequately prepare to warn its residents about impending danger. On page 25 we describe how Ventura had not adequately engaged with persons with access and functional needs during emergency planning, including individuals with limited English proficiency. In addition, as we describe on page 17, before the Thomas Fire, Ventura lacked an alert and warning plan and, as we explain on page 34, it had not prepared to send life-saving messages in languages other than English despite having a significant population with limited English proficiency. Ventura's opposition to our conclusion is especially disappointing given its recognition on page 113 that its translation of emergency information on its website and in its alert and warning messages (13)

during the Thomas Fire should have been better. Ventura makes a broad claim that the many modes it used to communicate with individuals were largely supported in multiple languages. This claim ignores the significant fact that the evacuation alerts it sent directly to people's landline and cell phones were only sent in the English language until 10 days into the Thomas Fire. Finally, Ventura's own improvements to its alert and warning strategies since the Thomas Fire indicate it believes that it must be better prepared than it was for the Thomas Fire. As we explain on page 34, after the Thomas Fire, Ventura developed pre-scripted alert and warning messages in Spanish so that it would be better prepared to warn its residents about impending threats in a language they would understand.

(14) Our report makes no conclusions about whether individuals perished as a result of communication deficiencies. However, Ventura's claim that no lives were adversely impacted due to communications during the Thomas Fire is both impossible to verify and doubtfully true given the large number of individuals in the county who are of limited English proficiency and would not have received alerts in a language they could understand.

(15) Ventura has no alert and warning plan. As we state on page 28, Ventura has standard operating procedures that describe the use of one specific notification system that it uses for sending alert and warning messages. These procedures also specify how the county will partner with cities to issue alerts. Further, Ventura's assertion that this document outlines industry best practices to send effective and timely emergency notifications to residents during an emergency is misleading. The operating procedures discuss only one alerting method and do not address considerations for any of the other methods that Ventura describes in its response on page 119. Ventura has since developed a draft alert and warning plan, which it states was developed because of lessons learned in recent disasters. We look forward to reviewing Ventura's finalized alert and warning plan once it has been completed.

(16) Ventura indicates it was engaged with a variety of community groups representing individuals with limited English proficiency before the Thomas Fire. However, it issued evacuation notices during the Thomas Fire in only English, which demonstrates that this community engagement did not influence the way Ventura prepared to alert its residents about lifesaving information. This fact highlights the importance of including such community groups in emergency planning and not relying solely on other interactions the county has with these groups for other purposes.

Ventura is incorrect that all of its emergency notifications and warnings following its initial Spanish message on day 10 of the Thomas Fire were bilingual. After it began issuing Spanish language messages, Ventura issued nine alerts through its emergency notification system. However, Ventura sent only three of these messages with full Spanish translations. A fourth message directed Spanish-speaking recipients who needed information about the Thomas Fire to visit Ventura's website. Ventura sent the remaining messages only in English. (17)

None of these master agreements to which Ventura refers exist for the purpose of providing evacuation assistance, as we explain on page 38. Rather, the master agreements show that local transportation vendors agreed to furnish bus tokens or passes, and none of them referenced how Ventura might leverage these agreements for evacuation assistance during an emergency. We look forward to reviewing the Transportation Emergency Preparedness Plan and accompanying MOUs that Ventura describes in its response as part of our post-audit follow-up process to determine the extent to which those documents ultimately incorporate best practices for assisting people with access and functional needs during disasters. (18)

Ventura's response acknowledges that it does not maintain agreements for shelter supplies that would ensure that its shelters are fully accessible to those with access and functional needs. However, Ventura expresses its belief that existing agreements that do not specifically contain provisions for obtaining accessible shelter supplies have, nonetheless, been sufficient to address sheltering needs. As we explain on page 42, documentation from Ventura showed that it struggled to obtain a sufficient number of accessible cots during the Thomas Fire. Best practices for emergency planning advise emergency management agencies to prearrange for these critical resources so that they are more easily obtained when they are needed. Therefore, Ventura's statement that it will re-examine its existing agreements is a step in the direction of better adherence to best practices for emergency planning. (19)

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GAVIN NEWSOM
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR

Cal OES
GOVERNOR'S OFFICE OF EMERGENCY SERVICES

October 23, 2019

Elaine M. Howle, State Auditor*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Howle:

The California Governor's Office of Emergency Services (Cal OES) received the California State Auditor's (CSA) draft report on October 17, 2019, regarding the results of its Emergency Planning Audit (2019-103) (the Report). Cal OES appreciates the opportunity to provide a response.*

1. **"Cal OES Has Not Modeled Best Practices by Including Individuals With Access and Functional Needs When Developing Guidance"**

According to the Report, "Cal OES has not followed a critical best practice: involving individuals with access and functional needs" in the State Emergency Management System (SEMS) committees and in other planning groups. This statement is inaccurate and counterproductive. ①

In point of fact, Cal OES partners with, includes, and coordinates with individuals and representatives from the access and functional needs (AFN) community on the development of every major product, tool, guidance, plan, lesson learned, finding, and initiative. As a pioneer of AFN considerations in emergency ①

* On the same day that it received the report, Cal OES requested an accessible version to enable its Chief of the Office of Access and Functional Needs to review the document with greater ease. In response, CSA stated that it had no obligation to furnish an accessible report. CSA then refused to provide an accessible report unless Cal OES agreed to additional conditions, over and above Cal OES' legal obligations, related to document disposal. Rather than negotiate terms for the release of an accessible report, Cal OES made its own in-house accommodations. ②

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* California State Auditor's comments begin on page 145.

management, Cal OES recognized early on that, nationwide, individuals with access and functional needs have historically been excluded from the emergency management planning process. That marginalization led to significant planning gaps measurable in human suffering and lives lost. It also engendered a deep mistrust within the AFN community towards local, state, and federal emergency management agencies.

To address this challenge, Cal OES took groundbreaking action in 2008 by creating an Office of Access and Functional Needs (OAFN) to identify and integrate whole community needs before, during, and after disasters. In recognition of this Office's importance, Cal OES ensured that the chief of OAFN would be a gubernatorial appointee, supported by his or her own staff, and reporting directly to Cal OES' executive office. This action was unprecedented, and today California remains the only state with such a senior level executive leading an entire office dedicated exclusively to AFN considerations.

① Cal OES agrees with the Report's premise that AFN representation across the SEMS committees is important, but disagrees with the notion that our current approach of "placing the same individual—the chief of its Office of Access and Functional Needs—on six of the seven committees" derogates from a whole community approach to planning. The Chief of OAFN is both a subject matter expert in emergency management and an individual with the experience of a ③ lived access and functional need. As a substantive expert and a statewide leader whose reach extends across AFN communities, the Chief represents both the community to emergency managers, and emergency managers to the community.

④① The Report's narrow focus on committee representation causes it to miss the forest for the trees. By focusing narrowly on the makeup of the (largely ad hoc) SEMS committees, the Report neglects the myriad of ways in which Cal OES incorporates AFN communities, and AFN considerations, into a whole community approach to planning. In addition to SEMS, the Chief of OAFN remains in daily contact with AFN stakeholders throughout California, including the community based organizations (CBOs) that form a key part of protecting

individuals with access and functional needs before, during, and after disasters. Similarly, Cal OES' regional staff are in frequent contact with the CBOs that represent the AFN community in their areas.

Further, by focusing on questions of representation, the Report threatens to tokenize AFN community participation in SEMS and other planning groups. To mandate the appointment of "individuals with the full range of access and functional needs" on planning groups is an unnecessarily rigid step. Such a tokenistic approach would only serve to undermine the hard-won social progress that Cal OES has helped to lead in conceptually desegregating AFN considerations—debunking the notion that AFN considerations are separate and apart from planning—and incorporating AFN into every element of the planning process.† ⑤

2. "Despite the Requirements in State Law, Cal OES Has Not Provided Critical Guidance to Local Jurisdictions"

a. *Incorporation of Best Practices Related to AFN into the State Emergency Plan*

The Report notes that "[i]n 2013, the Legislature amended state law to require Cal OES to update the [California State Emergency Plan (SEP)] to include proposed best practices for local governments and nongovernmental entities to use to mobilize and evacuate people with disabilities and others with access and functional needs." According to the Report, "Cal OES did not make these changes and the [SEP] still contains no guidance on evacuating people with access and functional needs, nor does it direct local jurisdictions to any such existing guidance or best practices."

In making this claim, the Report misunderstands how emergency plans in general, and the SEP in particular, function within California's emergency preparedness framework. The SEP does not include a *list* of best practices. ⑥

† CSA repeatedly declined invitations to join the Chief of OAFN at his frequent community engagement events throughout the state. Further, it appears that CSA neglected to contact the major CBOs that engage with Cal OES on AFN considerations. ⑦

Rather, it sets forth a framework that *reflects* best practices in a manner that is sufficiently general to enable emergency managers to respond to all hazards.
(8) Consistent with this approach, the current SEP does not segregate AFN considerations in a single section, or relegate them to an appendix. Rather, it
(6) addresses AFN considerations throughout the entirety of the document, using terms like "access and functional needs," "AFN," and "disability" over two dozen times, including with reference to evacuation. Even when the SEP does not use these terms, it incorporates and reflects best practices related to the protection of socially vulnerable populations.

(9) The Report prominently references the Congressionally enacted Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006. In doing so, the Report underscores the degree to which California has been a pioneer in incorporating AFN considerations into its planning. Particularly, the Report cites PKEMRA as a driving force for "provisions to improve planning to meet access and functional needs." PKEMRA also changed the way the Federal Emergency Management Agency (FEMA) and the federal government approached emergency management.

Based on PKEMRA, in March of 2008, the National Response Framework (NRF) replaced the National Response Plan (NRP) setting forth a national standard for framework design that came into alignment with the SEP, which was already well under development at the time. The SEP was also the foundation of California's accreditation from the Emergency Management Accreditation Program (EMAP), the premier national standard for emergency management programs.

Parallels between the National Framework and California SEP are not accidental, as California has consistently modeled the way for emergency management and plan development, just as California's Standardized Emergency Management System (SEMS), established in1993, was replicated nationally through the National Incident Management System (NIMS) in 2003.

As evidenced by its organization, plans, and actions, Cal OES has been a leader in changing the discourse from one that segregates and tokenizes AFN considerations, to one that incorporates AFN considerations across all areas. In short, consistent with Cal OES' pioneering efforts, the SEP reflects AFN considerations throughout its text. (8)

b. The Use of, and Advice to Local Jurisdictions about, Disaster Registries

The Report states that "Cal OES has not fully complied with a state law related to the establishment of disaster registries." Cal OES is not required to, nor does it, maintain a disaster registry. Cal OES has determined that disaster registries are themselves not a best practice. Among other problems, disaster registries raise privacy concerns, and are unlikely to contain complete, updated, and accurate information since they are a voluntary, opt-in system. These registries may also give a false sense of assurance that, for instance, an individual who opts in to the registry will be afforded particular evacuation assistance. This could be problematic during a disaster. (10)

Cal OES believes there are better approaches to engaging the AFN community, such as coordinating through CBOs. Accordingly, Cal OES has not itself developed a statewide registry, and its guidance to counties is not to use them. However, when counties wish to use such registries, Cal OES has provided, and continues to provide, advice and guidance on considerations local governments should be aware of with regard to these registries. In addition to providing guidance to local government on a frequent basis via day-to-day interaction, Cal OES has published on its website guidance specific to disaster registries. (10) (11)

Additionally, the report indicates, "[t]o the extent that any county could have benefited from guidance on registry management, Cal OES has failed to fulfill its mission of supporting communities through collaboration with local jurisdictions." This assertion is at best speculative and at worst incorrect. Cal OES has always provided feedback, guidance, and technical assistance to local government agencies indicating a desire to use such a registry. To conclude that Cal OES "failed to fulfill its mission" is misguided, exaggerated, and fails to recognize the (12)

nearly constant and regular support and guidance Cal OES provides to local governments throughout the state in the context of access and functional needs in disasters.

c. *Translated Message Templates*

During the audit process, CSA informed Cal OES that state law required it to "create a library of translated emergency notifications that may be used by designated alerting authorities when issuing emergency notifications." Cal. Gov. Code § 8594.16(b). Although statute requires Cal OES to "consider the two most commonly spoken languages other than English in the state when creating the library," *id.*, CSA suggested shortly before completing its draft report that Cal OES should create message templates in 15 languages. Cal OES then created a style guide, as well as a message templates in 19 languages. Those languages are:

1. English
2. Spanish
3. Chinese Mandarin
4. Chinese Cantonese
5. Vietnamese
6. Tagalog
7. Korean
8. Armenian
9. Russian
10. Farsi
11. Japanese
12. Arabic
13. Mon-Khmer/Cambodian
14. Hmong
15. Laotian
16. Punjabi
17. Hindi
18. Thai
19. Portuguese

After Cal OES completed these templates, CSA did not engage with Cal OES to address further concerns. Rather, CSA revised their Report, adding new critiques without Cal OES' input, concluding that Cal OES' 19 templates were "marked by deficiencies." (13)

CSA's rush to judgment is reflected in the quality of its product. Most significant, the purported "deficiencies" correspond to operational and tactical considerations best left to the sound discretion of emergency management professionals working in a dynamic environment. As noted below, rather than address here the critiques as set forth in the Report, Cal OES will engage with local jurisdictions and emergency management professionals with competent experience to determine the most operationally sound approach to enhancing the effectiveness of translated message templates. (14)

3. "Cal OES Has Not Ensured That Local Jurisdictions Can Locate Its Guidance Regarding Access and Functional Needs"

The Report notes that Cal OES has developed a large volume of information ("almost 250 links to different websites and documents") as well as web-based tools, "for local jurisdictions to use in their emergency planning, including their planning to meet access and functional needs." The Report suggests that these tools and information could be better organized. While Cal OES is committed to making its webpages easy to navigate, the Report's suggestions largely miss the mark. (15)

As the Report alludes, Cal OES has curated a large volume of AFN resources that are centrally located and free for local jurisdictions and other stakeholders to use. These resources include everything from guidance documents and "lessons learned" products to innovative tools such as the Cal OES Access and Functional Needs Web Map. Indeed, the Web Map is an illustrative example of the innovation that Cal OES has advanced as a pioneer in the AFN space. A first-of-its kind initiative, the Web Map deploys Geographic Information System mapping technology to overlay geographic data on active threats (such as fires), alongside the location of shelters and warming/cooling stations, assets

that the AFN community can use in an emergency (such as accessible transportation and accessible hygiene resources), as well as county-level Census data on the AFN community. Not only is this resource instructive to members of the AFN community, it assists emergency managers in all of California's 58 counties in identifying, locating, and deploying AFN related assets during all phases of an emergency.

After making note of the sheer volume of AFN resources that Cal OES has compiled, the Report correctly observes that Cal OES "does not indicate" which
⑮ resources are the "most valuable for local jurisdictions." Nor would Cal OES ever do so, for at least two reasons. First, local jurisdictions are better placed to determine which resources are most useful to them. Second, each local jurisdiction has unique needs, making it infeasible for Cal OES to impose a single, endorsed list of "best" resources applicable to all of California's 58 counties.

Further critiquing Cal OES' webpage, the Report suggests Cal OES "has not made those [AFN] resources easily available to the local jurisdictions." While Cal
⑮ OES again agrees that its website can be improved, it is false to suggest that an imperfect website means Cal OES has not made informational resources available to local jurisdictions. Cal OES, most often through OAFN, notifies jurisdictions across the state regarding new inclusive planning products via a multiplicity of methods such as email, presentations at meetings (conferences, regional events, Mutual Aid Regional Advisory Committees [MARACs], etc.), outreach through each region, direct contact, articles in newsletters, and other means.

4. "Cal OES Has Not Used After Action Reports to Share Lessons Learned From Recent Disasters, Even Though Doing So Could Aid Local Jurisdictions' Planning Efforts"

The Report notes that Cal OES has not completed its after-action reports (AARs) in a timely manner. Relying on this observation as a premise, the Report goes on to state that Cal OES has failed to share lessons learned from recent disasters
⑯ with local jurisdictions. While the Report's premise is accurate, its conclusion could not be more wrong.

Before CSA began its audit, Cal OES identified the backlog in its AARs. The principal reason for this backlog is that recent disasters have sharply elevated Cal OES' workload. Cal OES is configured such that its "steady state" staff also comprise its surge capacity; the same personnel who draft AARs also support disaster response and recovery activities. As disasters increase in scale, complexity, and frequency, there are more AARs to complete, yet fewer staff to complete them. ⑰

The sheer volume of Cal OES' disaster-related work is hard to overstate. As the Report itself notes, from January 2014 through December 2018, there were no fewer than 61 gubernatorially declared disasters in California. In 2017, after dealing with six years of unprecedented drought conditions, California experienced record rainfalls that resulted in Presidential Disaster declarations in 53 of California's 58 counties. The failure of Oroville Dam spillway resulted in the largest non-hurricane evacuation in U.S. history. The 2018 calendar year brought the largest, deadliest, and most damaging fires in the state's history. By the end of 2018, wildfires in California killed over 120 people, destroyed more than 22,700 structures, and burned over 1.8 million acres. Ten of California's most destructive fires have occurred since 2015, with four of the largest wildfires occurring since 2017. California's deadliest wildfire leveled nearly the entire city of Paradise in 2018, killing 86 people; the cleanup, rebuilding, and full economic recovery for this fire alone could span a decade. In July 2019, a 6.4 magnitude foreshock, and 7.1 magnitude earthquake, struck near Ridgecrest—the most powerful earthquake in California in nearly 20 years.

To adapt to the task of completing AARs while simultaneously addressing the response and recovery needs that result from this unprecedented series of disasters, Cal OES has implemented a new AAR process. The new system is being utilized on both backlogged AARs and new disasters beginning in 2019. As the Report notes, statute requires that Cal OES provide these AARs to all "interested emergency management and public organizations," and Cal OES does so. ⑱

⑯ However, these gaps in the AAR process do not mean Cal OES has failed to share lessons learned from recent disasters with local jurisdictions. Indeed, in focusing on Cal OES' formal AAR process, the Report fails to recognize the myriad of debriefs, hot washes, and other feedback loops designed to continually improve California's emergency management processes and educate local government on best practices. For example, the very exercise of developing an AAR requires Cal OES and local jurisdictions to engage in a critical dialogue that enriches the understanding of both Cal OES and the jurisdictions themselves. In practice, these critical dialogues begin immediately
⑯ after—if not during—a disaster. Furthermore, as the Report itself notes, Cal OES engages with operational areas through MARAC meetings where Cal OES and local government regularly discuss and share best practices. The MARACs, as part of the SEMS Maintenance System, can escalate collective emergency management concerns and initiate improvements statewide with or without an AAR.

Finally, in focusing on formal structures and documentation—the Report's
⑯ discussion MARAC minutes is a notable example—the CSA neglects to credit Cal OES' constant communication with all operational areas before, during, and after disasters about best practices and lessons learned. These nearly real-time processes are just as important—if not more important—than the formal AAR process in ensuring that lessons are learned and shared throughout California.

CSA Recommendation:
To ensure it fulfills its responsibilities under state law, Cal OES should, by no later than June 2020, issue the guidance that state law requires it to produce related to access and functional needs, including guidance related to establishing disaster registries and guidance on evacuating people with access and functional needs.

Corrective Action by Cal OES:
Cal OES will issue formal guidance regarding disaster registries. For the reasons described above, Cal OES will not change its approach to SEP but will continue to reflect AFN considerations throughout all of its planning documents. (19)

CSA Recommendation:
To ensure that it adequately equips local jurisdictions to send alert and warning messages in languages that their residents will easily understand. Cal OES should do the following:

- Provide clear direction to individuals who speak English so that they know which of the translated messages they should use in what specific circumstances.
- Revise the messages it has provided so that local jurisdictions can more easily adapt them for use in a variety of disaster situations.
- Expand its style guide to include terminology that emergency managers are likely to need to effectively modify their local messages and also to include translations for the other commonly spoken languages in the State.

Corrective Action by Cal OES:
Cal OES notes that it is in full compliance with the law governing translated message templates. As noted above, Cal OES will engage with emergency management professionals, as well as with local jurisdictions, to determine the most operationally sound approach to enhancing the effectiveness of translated message templates. (14)

CSA Recommendation:
To improve local jurisdictions' ability to quickly access guidance and resources related to planning to meet access and functional needs during natural disasters. Cal OES should make its emergency planning guidance and resources easily available through restructuring and improving its access and functional needs library webpage by April 2020.

Corrective Action by Cal OES:
Cal OES will continue to improve the AFN resources provided through all channels on an ongoing basis.

Elaine M. Howle
October 23, 2019
Page 12 of 12

Cal OES appreciates the assistance and guidance offered during CSA's audit. Should you have additional questions or concerns, please contact Ralph Zavala, Cal OES Internal Audits Office Chief, at (916) 845-8437.

Sincerely,

FOR

MARK S. GHILARDUCCI
Director

Attachments:

cc: Christina Curry, Acting Chief Deputy Director
Timothy Perry, Chief of Staff
Eric Lamoureux, Acting Deputy Director, Response
Vance Taylor, Chief, Office of Access and Functional Needs
Ralph Zavala, Chief, Internal Audits Office

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

To provide clarity and perspective, we are commenting on Cal OES's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Cal OES asserts that our conclusions about the extent to which it included individuals with access and functional needs in its planning groups are inaccurate and counterproductive. They are neither. Our findings are supported by sufficient and appropriate evidence, and our report makes clear the consequences of Cal OES failing to follow state law and best practices. As we indicate on page 59, state law requires Cal OES to include, to the extent practicable, representatives of people with specific types of disabilities on the committees it uses to issue guidance to local jurisdictions and to develop and approve the State's system for emergency management. At no point during our audit did Cal OES argue that such participation was not practicable. Therefore, in disregarding our findings, Cal OES ignores best practices and its statutory obligation to include key individuals on its committees. ①

In addition, Cal OES's own guidance states that successful emergency planning depends on involving representatives of people with access and functional needs when strategies are considered and plans are developed, which it refers to as "having the right people at the table." Cal OES guidance further states that it is important to recognize that emergency preparedness, response, and recovery involves the entire community, therefore a broad spectrum of the community should have a voice at the planning table. As we describe beginning on page 59, contrary to requirements in state law and to its own guidance, Cal OES included only one representative of people with access and functional needs on its committees—the chief of the Office of Access and Functional Needs (chief)—who is not representative of all access and functional needs populations. Including only this one individual does not give voice to a broad spectrum of the access and functional needs community during planning, and risks not adequately addressing the needs of those in that community.

Finally, Cal OES's failure to comply with state law and implement best practices can have significant detrimental effects. As we note on page 60, when Cal OES fails to include diverse representation in its emergency planning efforts, the risk is higher that local jurisdictions will not believe that the practice is worthwhile for their own planning efforts. Cal OES also risks not sufficiently

addressing access and functional needs in its guidance for local jurisdictions when it does not adequately include representatives of people with those needs in its development. Local jurisdictions should be able to rely on Cal OES's guidance regarding what to include in their emergency plans. As we state on page 61, if Cal OES's guidance does not fully address access and functional needs, local jurisdictions' plans are also less likely to do so.

② State law requires Cal OES to provide accessible information to its employees, which would include a copy of our draft report. Regardless, we attempted to assist Cal OES in accomodating its employee while complying with confidentiality requirements under state law that we must maintain. That law requires that all substantive communications relating to an ongoing audit are confidential, including draft copies of our reports; dissemination to unauthorized individuals is a misdemeanor. Therefore, we maintain strict security protocols, including control of hard copies of our draft report that we provide to auditees, and we ask them to do the same. In response to Cal OES's request, we agreed to depart from our usual practice and provide an electronic draft copy for Cal OES's review. The only "condition" we applied to providing the electronic copy was related to the secure disposal of that copy. Specifically, in order to have reasonable assurance that this confidential, but now easily disseminated electronic document had remained secure, our legal counsel contacted Cal OES' chief counsel to request that at the end of the 5-day review period the chief counsel provide us with a written statement that all electronic and hard copies had been deleted or destroyed. The chief counsel refused to provide this assurance and thus we declined to provide an electronic draft copy of the report.

③ We agree that the chief is a subject matter expert regarding access and functional needs. However, as we note on page 59, despite that subject matter expertise, the chief cannot provide the same depth of insight on specific access or functional needs as people with those needs or their representatives can provide. As we list on page 8, under state law individuals can have access and functional needs due to:

- Developmental or intellectual disabilities
- Physical disabilities
- Chronic conditions
- Injuries
- Limited or no English proficiency
- Age, including older adults and children
- Living in institutionalized settings
- Low income

- Homelessness
- Transportation disadvantages, including dependency on public transit
- Pregnancy

Further, Cal OES's perspective is in conflict with the chief's statements to us during the audit. As we note on page 59, the chief expressed his belief that having multiple subject matter experts on access and functional needs would be beneficial and that planning is better when it includes a broader diversity of perspectives.

Cal OES attempts to minimize its failure to adequately include individuals with access and functional needs on its committees by stating our review had a "narrow focus." By doing so, Cal OES downplays the critical functions that its committees perform. To the contrary, the committees we reviewed are responsible for the formation of the guidance that local jurisdictions throughout the State rely on to know how to conduct their emergency planning and response activities. For example, one committee we reviewed was responsible for developing the State's guidelines on alert and warning messages—messages that frequently contain life-saving information. The importance of this committee's work is reinforced by state law, which authorizes Cal OES to impose conditions on local jurisdictions' receipt of grant funding unless they operate their alert and warning activities in a manner consistent with those guidelines. Further, we observed that the three counties we reviewed were waiting for Cal OES to publish its alert and warning guidelines before adopting changes to their own plans. In other words, the actions of Cal OES's committees can have a profound effect on local jurisdictions' emergency planning and management. Therefore, it is imperative that Cal OES ensure that those committees adequately integrate representatives of people with access and functional needs by including them as members of its committees. (4)

Cal OES's comment on including people with access and functional needs in its planning is disconcerting. FEMA and Cal OES guidance indicate a broad diversity of perspectives is critical to a planning process. These best practices were the basis of our recommendation that the Legislature require Cal OES to include representatives of people with access and functional needs on its planning committees. By claiming that our recommendation would promote "tokenism"—the act of making only a symbolic or perfunctory effort to perform a task—Cal OES implies that these representatives would provide no actual value to its planning processes, a position at odds with its assertion of being a pioneer of access and functional needs considerations in emergency planning. Also, it is dismaying to see Cal OES indicate that this kind of representation on its committees would somehow serve to (5)

undermine the position of people with access and functional needs. Finally, Cal OES presents no clear reconciliation of its best practice advice to local jurisdictions to include a broadly diverse group in emergency planning, the recently-created requirement in state law for local jurisdictions to follow that best practice, and its apparent belief that our recommendation to do the same thing at the State level is inadvisable and unnecessarily rigid.

⑥ Throughout its response, Cal OES attempts to distract from our conclusions that it failed to follow state law by suggesting we do not understand the subject matter of this audit and by minimizing the importance of following state law. The fact that Cal OES has not complied with key state laws related to access and functional needs is clear and undeniable, as we demonstrate throughout Chapter 2 of our report. Despite the various objections that it includes in its response, Cal OES does not have authority to decide whether to comply with state law. Our report makes clear the effects of Cal OES's noncompliance: local jurisdictions are without the important guidance that the Legislature and the Governor intended that Cal OES provide to them.

⑦ Cal OES appears to suggest that there was a gap in our analysis because we did not attend its community events or have discussions with community based organizations with which it claims to partner. During our audit we were aware of the chief's community events and Cal OES's assertions that it has discussions with community based organizations. Consistent with the standards we are required to follow and our approach to all audits, we used our professional judgment to determine the procedures necessary to obtain sufficient and appropriate evidence to support our conclusions. For instance, we reviewed Cal OES's alert and warning guidelines and requested documentation to support that Cal OES had involved representatives of people with access and functional needs in the development of those guidelines. Cal OES was unable to provide that documentation, and as we discuss on page 60, the alert and warning guidelines do not adequately address strategies for meeting access and functional needs. Therefore, despite the chief's attendance at community events and the claims Cal OES makes that it engages with major community based organizations, it did not adequately involve those groups in the development of the alert and warning guidelines, which ultimately affected the quality of those guidelines. Therefore, we stand by our conclusions.

⑧ Cal OES raises matters that are unrelated to the requirement in state law or the conclusion we present in our report about its failure to comply with state law requiring it to provide certain guidance to local jurisdictions. State law does not require Cal OES to segregate access and functional needs considerations or relegate them to an appendix, and our report does not say that Cal OES should do so.

In the Introduction to our report we present the fact that in 2006 Congress and the President created the Post Katrina Emergency Management Reform Act, which called on FEMA and state and local emergency response agencies to more sufficiently address access and functional needs in the preparation for and response to natural disasters. We also note that, in 2008, California created the Office of Access and Functional Needs at Cal OES. However, as we detail in Chapter 2 of our report, there have been critical deficiencies in Cal OES's leadership and its support of local jurisdictions related to planning to protect and assist people with access and functional needs. (9)

Contrary to Cal OES's statement, our report does not suggest that it is required to or should maintain a disaster registry. Rather, our report describes, on page 55, that state law requires Cal OES to develop model guidelines for local jurisdictions that intend to develop disaster registry programs, including recommendations for addressing known problems with the use of disaster registries. However, Cal OES failed to develop that guidance as state law requires. (10)

The guidance that Cal OES describes is inadequate because it does not meet the requirements in state law. We discuss on page 55 that state law requires Cal OES to develop model guidelines on disaster registries, including recommendations for addressing known problems with the use of disaster registries, such as maintaining privacy for the people on the registry, and clarifying that the intent of the registry is not to provide immediate assistance during an emergency and that individuals must be prepared to be self-sufficient. However, as we also discuss on page 55, the guidance that Cal OES has issued about disaster registries does not contain all of the information that state law requires. Instead, it states that registries have proven unworkable, generally emphasizes concerns about registries, and provides little advice about how a local jurisdiction should manage a registry. (11)

Cal OES takes our conclusion on page 56 out of context and then states that it is misguided, exaggerated, and fails to recognize the actions it has taken to support local jurisdictions. Our conclusions are not misguided or exaggerated and the support that Cal OES provides to local jurisdictions does not excuse its failure to follow state law. Since 1991, state law has required Cal OES to provide guidance on disaster registries and our review found that it has not done so. To fully satisfy its mission to support local jurisdictions, Cal OES should provide all statutorily required support to local jurisdictions. Therefore, because it has not provided the required guidance, Cal OES has not fulfilled its mission. We also note that later in its response, on page 143, Cal OES agrees that it should (12)

follow state law and issue guidance on disaster registries. We look forward to reviewing documentation of its efforts as part of our post-audit follow up process.

(13) There is significant context missing from Cal OES's response. Over the course of this audit, Cal OES had ample opportunity to discuss these templates with us but chose not to do so. As we state on page 56, we repeatedly asked Cal OES about its plan for developing these statutorily required templates and a translation style guide. We first requested this information in May 2019, and for several months Cal OES staff did not articulate such a plan. After we told Cal OES that we planned to report that it had no plan for producing the required templates and style guide, Cal OES finally responded. Specifically, in mid-September 2019, Cal OES claimed that it had contracted with a translation firm for the purposes of fulfilling this requirement. When we asked for a copy of this contract, Cal OES did not provide it.

In late September 2019 we met with Cal OES to share a draft of our audit report and at that meeting Cal OES informed us that it had posted Spanish language message templates to its website and that it was developing Chinese language templates. During the meeting Cal OES shared no plan for developing a translation style guide or templates in any other languages. Shortly after that meeting, while we were preparing the final draft report for Cal OES's review, Cal OES notified us that it had posted message templates in 19 languages and a translation style guide to its website. We reviewed the templates and style guide and made revisions to our draft report before providing it to Cal OES for its review. Subsequently, we contacted Cal OES multiple times to inquire as to any concerns it had about our conclusions. However, Cal OES never raised concerns about our conclusions concerning its message templates and translation style guide.

(14) Cal OES dismisses the deficiencies that we identified in its message templates and translation style guide but does not explain what specifically about our critiques it takes issue with. The deficiencies that we identified in the message templates are irrefutable and, as we describe beginning on page 56, render the message templates largely unhelpful to local jurisdictions. We further state in our report that these deficiencies increase the risk that local jurisdictions will not use the templates or use the wrong message template in an emergency situation. We encourage Cal OES to follow through on its pledge to work with local emergency managers to enhance the effectiveness of its templates, although partnering with local jurisdictions is something that we would have hoped Cal OES had done in advance of releasing these templates.

We look forward to reviewing documentation of Cal OES's engagement with local jurisdictions to improve its message templates and translation style guide.

Cal OES does not explain why it thinks our recommendation to make its guidance and resources easily available misses the mark. As we state on page 58, Cal OES's own chief acknowledged that the access and functional needs library could be improved so that local jurisdictions can more easily navigate it, and indicated that Cal OES would seek a contract to restructure and improve the webpage. (15)

Cal OES also suggests that it would not recommend valuable resources to local jurisdictions because of each local jurisdiction's unique needs. In doing so, Cal OES ignores that—although local jurisdictions needs may vary—there are key sources of planning best practices that are beneficial for all local jurisdictions. For instance, FEMA has published several major guidance documents related to alert and warning, evacuation, and sheltering, which we reference in our report. Cal OES also ignores that some of the almost 250 documents on its webpage are simply not relevant for most local jurisdictions, such as the guidance directed at hospitals or polling places that we reference on page 58. Local jurisdictions should not have to search a webpage containing irrelevant guidance to find key sources of planning guidance.

Cal OES acknowledges in its response that it has not complied with state law related to the timely completion of after-action reports. As we discuss beginning on page 61, Cal OES is uniquely positioned to identify local jurisdictions' successes and struggles in responding to emergencies, and share that information with local jurisdictions across the State to help them in their planning. However, Cal OES has not completed after action reports for the vast majority of natural disasters that have occurred in the last five years, and it has not broadly disseminated lessons learned from those disasters. In its response, Cal OES restates perspective that it provided during our audit that it has shared lessons from recent disasters at various in-person meetings. We note this perspective on page 65, and state that we reviewed minutes from the meetings at which Cal OES claimed that it shared lessons learned. Although the minutes indicated that some local jurisdictions shared lessons learned during those meetings, several local jurisdictions did not attend the meetings, meaning that they would not have benefited from those discussions. Moreover, these discussions are a poor substitute for the broader and more complete perspective that after-action reports are intended to provide. As we state on page 65, by not widely publicizing lessons learned from recent disasters—through after-action reports or any other means to disseminate (16)

those lessons—Cal OES has failed to broadly distribute information that could help local jurisdictions across the State learn from the experiences of others and improve their ability to effectively respond to natural disasters.

⑰ In its response, Cal OES indicates resource constraints are the reason why it has been unable to complete timely after-action reports in accordance with state law. However, Cal OES did not provide this explanation to us during our audit. Rather, our report contains the two reasons for delayed and incomplete after-action reports that Cal OES provided during our review: its belief that state law is unclear as to when those reports are due and that local jurisdictions do not always submit their own after-action reports to Cal OES. Because it did not share information about resource constraints with us, we have no assessment on the degree to which resource availability is a sufficient explanation for Cal OES's failure to complete after-action reports. However, we do note that even though Cal OES considers resources to be a constraint for it in completing after-action reports, its response does not indicate any actions on its part to reallocate or seek additional resources to address this constraint.

⑱ We note Cal OES's adoption of a new after-action report process in March 2019 on page 64 but also note that as of October 2019, Cal OES had not issued any after-action reports using that process.

⑲ In declining to implement our recommendation to issue the guidance on evacuating people with access and functional needs, Cal OES indicates that it does not intend to fulfill its statutory obligation to do so. As we note in comment 6, Cal OES does not have the authority to choose whether to comply with state law.

Disaster Council Accreditation

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The authority for the formation and accreditation of a disaster council can be found in the Emergency Services Act (Chapter 7 of Division 1 of Title 2 of the Government Code), and in the California Code of Regulations, Title 19, Division 2, Chapter 2, Subchapter 3, §2571. In order to be eligible for accreditation, a Disaster Council must provide the California Governor's Office of Emergency Services (Cal OES), Preparedness Branch with two certified originals of the following documents: Disaster Council Model Emergency Ordinance, Disaster Service Workers Volunteer Resolution, and Master Mutual Aid Agreement (models are below). If any amendments or revisions are made to these documents, review by Cal OES is required for continued compliance, prior to the ADC approval or adoption.

1. Disaster Council Model Emergency Ordinance: Counties and cities may create disaster councils by ordinance (G.C. §8610). In the ordinance or by resolution adopted pursuant to the ordinance, the governing body of a county or city may provide for the emergency organization, powers and duties, divisions, services, and staff of the organization. The Emergency Ordinance provides the legal basis of the emergency organization and must address the following:

- The ordinance must provide for a Disaster Council
- A chairperson or director of the Disaster Council must be specified
- The emergency organization must be recognized
- Compliance with the Emergency Services Act must be stated

2. Disaster Service Workers Volunteer Resolution: Resolution agreeing to follow established rules and regulations relating to the various classes of disaster service volunteers worker, scope of duties of each class, and manner of registration pursuant to the provisions of G.C. §8585.5. Allows cities and counties to participate in the Disaster Service Workers Volunteer Program which provides, duly registered volunteers, with workers' compensation coverage in the event of injury while performing authorized disaster duties.

3. Master Mutual Aid Agreement: Resolution agreeing to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement. This Agreement is made and entered into by and between the State of California, its various departments and agencies, and the various political subdivision of the state, to facilitate the rendering of aid to areas stricken by an emergency and to make unnecessary the execution of written agreements customarily entered into by public agencies exercising joint powers. Becoming signatory to the Agreement allows for participation in the statewide Mutual Aid system.

For assistance, please contact the Cal OES Regional staff person assigned to your county or you may contact:

Clifford Viernes, Program Manager
(916) 845-8779 – Office
Clifford.Viernes@caloes.ca.gov

EN

Disaster Council Additional Information and Council Models

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

EXTREME TEMPERATURE RESPONSE PLAN

An Annex to the State Emergency Plan
(Includes Guidance for Local Government)



Gavin Newsom
Governor

Mark Ghilarducci
Director
Governor's Office of Emergency Services

May 2022

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Letter of Promulgation



May 2022

To: Heads of All State Agencies, Boards, Departments, and Offices
Heads of City and County Governments

The State of California is one of the most diverse areas in the world. This is reflected not only in our communities but also in our weather. Weather in California has always been highly variable in terms of precipitation, temperature, magnitude and severity of storms, and wind events. With increasing climate change and the severity of prolonged heat and cold emergencies, it is incumbent on all of us to be prepared to respond to protect our communities, especially older adults, individuals with disabilities, and people with access or functional needs who are at a higher risk of negative outcomes from extreme temperatures.

As the Director of the California Governor's Office of Emergency Services, I am charged with executing this *Extreme Temperature Response Plan* which supports the State Emergency Plan. This plan communicates how state government mobilizes and responds to extreme high and low temperatures in coordination with partners at the National Weather Service, all levels of government, tribal nations, the private sector, non-profit, and community-based organizations. This plan also provides guidance and checklists to assist local efforts. I request that all political subdivisions of California take the necessary steps to carry out the provisions of this plan within their jurisdictions for the protection of all residents.

Sincerely,

MARK S. GHILARDUCCI
Director

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Record of Changes

The most current copy of this annex, including any changed pages, is available through the Planning and Preparedness Branch of the California Governor's Office of Emergency Services at 3650 Schriever Avenue, Mather, CA 95655. Copies are also available on the Planning and Preparedness Branch web page under the Plans and Publications banner..

Change #	Date	Summary of Changes
1	6/13/2022	Updates to CA Dept. of Developmental Services' facility terms.
2	8/31/2022	Updated CA ISO Emergency Notifications.
3	9/2/2022	Updates to access and functional needs, updates to Cal OES web links.
4	5/9/2023	Updated National Weather Service terminology for HeatRisk. Added information on California's electric balancing authorities. Updated program descriptions for CDFA and CDSS.

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Executive Summary

This plan is an annex to the State Emergency Plan.

The plan describes state operations during an extreme temperature warning and provides guidance for state agencies, local governments, tribes, and non-governmental organizations (NGOs) in preparation for their heat and cold/freeze response plans and other related activities. It was created by combining and updating the 2013 Contingency Plan for Extreme Cold/Freeze Emergencies, as well as the 2014 Contingency Plan for Excessive Heat Emergencies.

The plan establishes best practices for local governments through guidance and checklists and recognizes that some local agencies may already have a system for managing extreme temperatures. It is the intent of this plan to assist local efforts and to better coordinate their efforts with those initiated by state agencies. More information regarding best practices for local governments can be found in Appendix B: Local Government Guidance.

The plan utilizes the National Weather Service (NWS) experimental forecast product HeatRisk, which provides daily guidance on potential heat risks. This risk is assessed by comparing the official NWS temperature forecast to local thresholds which change through the year based on climatology. More detailed information about this product can be found in Appendix C: National Weather Service Products.

The plan recognizes the need to:

- Communicate and coordinate between state agencies and local government.
- Mobilize resources and initiate actions in advance of local requests.
- Support the local government's actions according to the Standardized Emergency Management System (SEMS).

The plan contains the following information:

- A description of the purpose and scope of the plan.

- Background information including the history of extreme temperature-related declared emergencies in the state and other parts of the nation.
- Descriptions of the conditions triggering each phase of this plan.
- The responsible state agencies and their actions during different phases of the plan.
- Guidance for local agencies to help plan and coordinate efforts during extreme temperatures (See Appendix B: Local Government Guidance - Roles and Responsibilities).
- Appendices of supporting information.

The plan recognizes three (3) phases of activation:

- Phase I - Seasonal Readiness
- Phase II - Heat or Cold/Freeze Alert
- Phase III - Heat or Cold/Freeze Warning

These phases are activated based on the severity of the risk of extreme temperatures. This plan considers individuals who are at greater risk for serious illness from extreme temperatures, individuals with an access or functional need, the general population, as well as animals and livestock. The direct involvement of state and local agencies to protect individuals increases with the severity of the risk.

This plan contains specific actions to be taken by the state in each of the three phases. The specific action steps include, but are not limited to, the following:

- Coordinating among state and local agencies (All phases).
- Disseminating information (All phases).
- Preparing cooling or warming centers to support local response efforts (Phase II).
- Activating cooling or warming centers (Phases II and III).
- Directly contacting and monitoring those at risk (Phases II and III).
- Transporting those at risk to cooling or warming centers (Phases II and III).
- Governor's Proclamation of a State of Emergency (Phases III).

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1.0 Purpose and Scope

Purpose

The Extreme Temperature Response Plan is a hazard-specific plan that supports the State Emergency Plan (SEP), and outlines actions the State of California may take in support of state agencies and local government when an extreme temperature is anticipated or has occurred. It incorporates lessons learned from previous extreme temperature responses and current best practices for state and local governments.

Scope

This plan was developed to guide emergency management planning and response to a heat wave or a cold/freeze event in the State of California. It is flexible, scalable, and may be used during a response to a heat wave or a cold/freeze event of any severity. This plan focuses on the state's response in supporting state agencies, Operational Areas (OAs), and local government. Additionally, it provides guidance to local governments during their planning and preparedness, response, and recovery.

An extreme temperature (hot or cold) is defined as environmental temperatures (high or low) that are often slower to develop, taking several days of continuous, oppressive extreme temperatures before a significant or quantifiable impact is seen. Traditionally, extreme temperatures do not strike victims immediately, but rather have cumulative effects that, over time, negatively impact the lives of older adults, individuals with disabilities, and anyone with an access or functional need. Extreme temperatures may also negatively impact pets, livestock, and agricultural crops.

2.0 Background

California's climate is one of the most diverse in the world, ranging from the freezing temperatures of Bodie State Park that records nearly 300 days of temperatures below 32°F per year, to Death Valley which records around 100 days of temperatures of 99°F or above per year. These two extreme differences in climate illustrate why California's residents and businesses must plan, prepare, respond, and recover with great regard for the temperature.

Impact of Extreme Heat

According to the NWS, heat waves are defined as a period of abnormally and uncomfortably hot and unusually humid weather, typically lasting two or more days. Heat waves normally coincide with little overnight cooling/relief. Heat waves do not cause damage or elicit the immediate response that floods, fires, earthquakes, and other disasters do. They do, however, rank among the deadliest of natural hazards and claim many more lives when compared with other disasters.

The worst single heat wave in Southern California for loss of life occurred in the summer of 1955 when an eight-day heat wave resulted in 946 deaths. In early July 2006, a heat wave incident killed 141 individuals in California and caused crop damages more than $180 million and $583 million in other losses. This terrible incident tested the emergency management system in California in new ways and led to many recommended improvements to California's emergency management system to reduce loss of life in future heat wave events. In comparison, other types of disasters such as earthquakes and fires have caused fewer deaths. For example, the 1989 Loma Prieta Earthquake resulted in 63 deaths, while the 1992 Northridge Earthquake was responsible for the loss of 55 lives. The catastrophic 2003 Southern California firestorms resulted in 24 deaths and the 2018 Camp Fire in Butte County resulted in 85 deaths.

The California Climate Adaptation Strategy, citing a California Energy Commission study of the San Diego region, states that over the past 15 years, heat waves have claimed more lives in California than all other declared disaster events combined. Despite this history, however, few heat events were proclaimed at the state level or declared as a federal disaster between 1960 and 2009. Though no formal explanation exists for this seeming contradiction, scholars have written about the exclusion of heat events as declared disasters.

Klinenberg, author of an account of a heat wave that killed 739 individuals in the Chicago area in July 1995, suggests that the hidden nature of social vulnerability, combined with the inconspicuous nature of heat events (unlike earthquakes, floods, wildfires, tornados, etc.), prevent them from being declared as legitimate disasters. Further, an evaluation of hospitalizations in California found that heat events in cooler months (due to less acclimatization to heat) and those with above average humidity resulted in greater health impacts.

According to Safeguarding California: Reducing Climate Risk, an update to the 2009 California Climate Adaptation Strategy, it is anticipated that extreme heat events in urban centers such as Sacramento, Los Angeles, and San Bernardino could cause two to three times more heat-related deaths than occurred in 2006. Additionally, Safeguarding California notes that urban areas are more likely to experience heat island effects.

A heat island is an urban area having a higher average temperature than its rural surroundings due to the greater absorption, retention, and generation of heat by its buildings, pavements, and human activities. According to the U.S. Environmental Protection Agency, daytime temperatures in urban areas are on average 1-6° F higher than in rural areas, while nighttime temperatures can be as much as 22° F higher as the heat is gradually released from buildings and the pavement. The concentration of heat in urban areas enhances the formation of air pollutants, especially ozone, and the raised nighttime temperatures limits the ability of people to cool down before the heat of the next day, increasing the risk of illness and fatalities.

The frequency and intensity of heat waves are expected to increase globally, threatening human and animal health, especially among older adults, individuals with disabilities, and anyone with an access or functional need including individuals who are economically challenged, persons with chronic illnesses, and people experiencing homelessness. Current literature indicates that individuals with access or functional needs are disproportionately impacted by all disasters, including weather related events. In addition, the literature also indicates that emergency preparedness plans, heat health warning systems, and related interventions may not be reaching or supporting individuals with access or functional needs in meaningful ways that change behavior among those at the highest risk during a heat wave.

Impact of Extreme Cold/Freeze

Extreme cold/freezing temperatures are generally defined as sustained temperatures at or below freezing for an extended period. Extreme cold/ freezing temperatures, although not as prevalent in the State of California as heat waves, still pose a real danger to life, property, and agriculture.

From December 1998 to mid-January 1999, freezing conditions caused damage to the Central Valley citrus crop. The freeze affected citrus workers and growers.

Agricultural damages were valued upwards of $130 million. According to the Seattle Times, in December 2006, a severe windstorm and freezing temperatures to the Pacific Northwest left eight dead and up to one million individuals without power. Desperate for warmth, some individuals used barbeques inside their homes for heat which resulted in deaths caused by carbon monoxide poisoning. Additionally, the Associated Press reported that Colorado and several Midwest states experienced extreme freezing and ice storms causing massive power disruptions and a death toll of at least 46 individuals in seven states. More recently, in late December 2021, extreme snowfall and cold/freezing temperatures across California caused power outages in over 109,000 households: some for up to seven days. This resulted in multiple counties opening and maintaining warming centers for a prolonged period.

Although infrequent, freezes can severely affect California agriculture. Freezing temperatures occurring during winter and spring growing seasons can cause extensive crop damage. Secondary impacts of freeze disasters can include major economic impacts to farmers, farm workers, packers, and shippers of agricultural products and may cause substantial damage to various crops that may lead to significant increases in food prices for the consumer due to decreases in supply. A six-day period of freeze in December 2013 caused more than $440 million in damage to citrus crops. Citrus crops tend to be the most vulnerable to freeze and they accounted for a vast majority of reported damages between 1972 and 2016.

Climate Change

Globally, California leads in efforts to avoid the worst effects of climate change by reducing greenhouse gas emissions. Still, the impacts of climate change are already being felt in California and are disproportionately impacting older adults, individuals with disabilities, and people with access or functional needs throughout the state.

The accelerating rate of climate change in this century will likely exceed that experienced by California's native populations over past millennia. These changes reveal that the state's 117 years of weather-related record-keeping can lead to significant underestimates as predictors of future weather-related events (Science Advances). California's climate is changing, as indicated in the California Office of Environmental Health Hazard Assessment's (OEHHA) 2022 report, Indicators of Climate Change in California. Responsible agencies must

continue to plan for and take action to address current and future climate impacts.

The state relies on a comprehensive climate adaptation strategy that includes science planning, tools, funding, and collaboration to prepare for a changing climate and to create a more resilient California. The Adaptation Planning Guide (APG), State Adaptation Strategy, California Fourth Climate Change Assessment, and Cal-Adapt are key pieces of the comprehensive climate framework. Additional, up-to-date, climate change information and tools are kept on the Governor's Office of Planning and Research Resilient California website. This information equips planners, practitioners, policymakers, and decision-makers with data, background, funding options, and cutting-edge tools that visualize and model regional impacts from changes in temperature, sea-level rise, precipitation, and wildfire.

3.0 Assumptions

The following assumptions should be considered:

- Climate change may increase the extremes in temperature not only in the summer and winter months but throughout the year.
- Weather conditions often vary greatly from one geographic region to another.
- Different climates exist across the state and persons are acclimated best to the climate in which they live and work.
- Local governments are the first responders in emergencies and request mutual aid through the established process under SEMS when necessary.
- The California Governor's Office of Emergency Services (Cal OES) will primarily rely on the OAs to determine the activation levels at which specific mitigation, preparedness, response, and recovery activities will be undertaken in their jurisdictions.
- The state may initiate specified actions independently but will communicate and coordinate those actions with local government.
- Electric power generation, transmission, and distribution grids are impacted by the increased loads resulting from heat or cold/freezing temperatures.

- Power disruptions may occur simultaneously as extreme temperature incidents, thus increasing the risk to life safety, critical infrastructure, and the environment.
- Extreme temperatures are potentially life-threatening to people, pets, and livestock.
- Extreme temperature incidents may restrict public gatherings and require some public facilities to be used as temporary respite areas.
- Individuals with access or functional needs are disproportionately impacted and at higher risk for serious illness and negative impacts from extreme temperatures.
- Individuals experiencing homelessness may need immediate transportation to and from cooling/heating centers, temporary sheltering, and wraparound services during extreme temperatures.
- Extreme heat may result in an increase in water rescues/recoveries.
- The majority of California is a Mediterranean climate which may increase the population's vulnerability to a cold snap.
- Sustained temperatures below freezing in California's generally mild weather regions can cause disproportionate loss of life, increased suffering, and health risks to older adults, individuals with disabilities, and individuals with access or functional needs.
- Extreme cold/freezing temperatures may result in an increase in ice falls and cold-water drownings.
- Heavy ice/snowfall accumulation may result in the collapse of roof structures, power lines, and other infrastructure.

4.0 Roles and Responsibilities

State departments/agencies with lead and support roles named in this section, while responding to extreme temperatures, should act in accordance with agency and departmental delegated authorities and emergency response plans, policies, and procedures. All state response efforts are coordinated through the State Operations Center (SOC), Department Operations Centers (DOCs), and with OA Emergency Operations Centers (EOCs).

Associated tasks and departmental responsibilities depicted below are in addition to those identified in the State Emergency Plan and are not a comprehensive list of every task.

State Department/Agency	Responsibility
CA State Warning Center (CSWC)	• Statewide emergency alert and warning notifications. • Disseminate watches and warnings through statewide communications networks. • Collect situational updates from OAs.
Cal OES Situation Cell	• Clarify and define weather forecast with the National Weather Service. • Coordinate among all partners to gather situational awareness for report development. • Develop and disseminate the Situation Cell Weather Outlook and/or Situation Cell Incident Report. • Facilitate state coordination conference calls, as needed. • Continually analyze the weather event for changes in duration or impacts.

State Department/Agency	Responsibility
Cal OES Response Operations and Affected Administrative Regions	• Emergency management - all Incident Command Systems (ICS)/SEMS/National Incident Management System (NIMS) functions - recovery programs.
Cal OES Office of Access and Functional Needs (OAFN)	• Identify and integrate the needs of older adults, individuals with disabilities, and persons with access or functional needs within the state's emergency management systems. • Provide guidance and technical assistance to emergency managers, planners, community-based organizations, and whole community stakeholders for planning, disaster response, and recovery.
Cal OES, Office of Crisis Communications and Public Affairs (OCCPA)	• Responsible for all public communication, education, and media relations during response, recovery, and in preparation for disasters and emergencies.
CA Department of Food and Agriculture (CDFA)	• Animal (livestock and domestic) health services and biosecurity. • Coordinate California Animal Response Emergency System (CARES) during disasters. • Food safety and security measures. • Provide information and assistance for Agricultural Commissioners and growers. • Assist in coordinating animal mortality needs and carcass disposal.

State Department/Agency	Responsibility
CA Department of Aging (CDA)	• Provide information and assistance for older adults, adults with disabilities, and caregivers.
CA Employment Development Department (EDD)/ Workforce & Labor Development Agency	• Disability Insurance, Paid Family Leave, Unemployment Insurance, Disaster-Related Services, tax collection, and workforce services.
CA Department of Public Health (CDPH)	• Oversee statewide public health disaster planning and Medical and Health Coordination Center. • Public health programs. • Provide guidance on extreme temperature impacts to public health. • Provide hospitalization and heat injury data.
CA Division of Occupational Safety and Health (Cal/OSHA)	• Educate workers and employers on heat illness prevention. • Investigate worker heat-related illnesses and fatalities. • Ensure employer compliance with California's heat illness prevention regulation through targeted inspections. • Coordinate with Public Information Office to issue hazard alerts. • Develop strategic outreach initiative for annual heat illness prevention media campaign.

State Department/Agency	Responsibility
CA Department of Social Services (CDSS)	• California Work Opportunity and Responsibility to Kids (CalWORKs) - cash aid and services (including immediate need) • CalFresh (including expedited service and/or Disaster CalFresh benefits). • Emergency Food Assistance Program (EFAP). • Coordinate state resources in support of local government. • Community Care Licensing Division (CCLD) Responsible for the health and safety of persons in care in licensed facilities. • Coordinate Mass Care and Shelter during disasters.
CA Emergency Medical Services Authority (EMSA)	• Emergency medical care. • Provide disaster medical services if needed. • Provide Medical Health Operational Area Coordinators (MHOAC) and Regional Disaster Medical Health Specialists (RDMHS). • Review pre-hospital services as appropriate.
CA Military Department (Cal Guard)	• Logistical support of armories. • Provide Cal Guard Troop resources. • Provide the SOC with available resources list during disaster (e.g., portable water storage, desalinization apparatus, etc.).

State Department/Agency	Responsibility
CA Department of Developmental Services (DDS)	• Provide communication and assistance to regional centers and state operated facilities, who provide direct services and assistance to people with access or functional needs. • Advise Cal OES on the needs of people with access or functional needs.
CA Department of Health Care Services (DHCS)	• Oversee Medi-Cal. • Provide Crisis Counseling (regular and immediate).
CA Department of Rehabilitation (DOR)	• Provide communication and assistance to individuals with access or functional needs.
CA Department of State Hospitals (DSH)	• Provide treatment, care, and security for hospital in-patient psychiatric population. • Ensure support and care for patients receiving treatment in DSH programs.
CA Department of Transportation (Caltrans)	• Multimodal transportation coordination. • Transportation infrastructure.
CA Business, Consumer Services, and Housing Agency (BCHS)	• Loan guarantees for farm and agriculture related enterprises.
CA Department of Housing and Community Development (HCD)	• Housing programs.
CA Department of Community Services & Development (CSD)	• Community Services Block Grant (CSBG), Low Income Home Energy and Household Water Assistance Programs (LIHEAP/LIHWAP), Low Income Weatherization Program (LIWP), and other programs designed for individuals and households with low-income.

Commission	Responsibility
CA Agricultural Labor Relations Board	• Provide interpreters and mobile resources for agricultural workforce.
CA Public Utilities Commission (CPUC)	• Aid California utility customers. • Regulate utilities, including during emergencies and extreme weather events.

Utilities	Responsibility
Investor Owned/Publicly Owned Utilities	• Provide low-income energy assistance. • Alert customers of potential power disruptions. • Support customers impacted by power disruptions. • Assist customers who are dependent on power for life sustaining medical devices and other individuals with access or functional needs through various programs.

Electric Balancing Authority*	Responsibility
CA Independent System Operator (ISO)	• Operates an electrical transmission control area. • Matches power generation and needs to maintain consistent electricity, even during extreme weather or disasters. • Largest balancing authority in California, managing 80% of the state's electric load.

Electric Balancing Authority*	Responsibility
Other California Balancing Authorities: • **Balancing Authority of Northern California (BANC)** • **Los Angeles Department of Water & Power (LADWP)** • **Imperial Irrigation District (IID)** • **Turlock Irrigation District (TID)** • **Western Area Power Administration, Lower Colorado (WALC)** • **PacifiCorp West** • **NV Energy**	• Each authority operates an electrical transmission control area. • Matches power generation and needs to maintain consistent electricity, even during extreme weather or disasters. • These authorities together manage 20% of the state's electric load.

* See California Electric Balancing Authority Areas Map for specific coverage areas and details.

Non-Governmental Agency	Responsibility
American Red Cross (ARC)	• Care and shelter services during and after disasters. • Post-disaster financial assistance, if approved.
California Foundation for Independent Living Centers (CFILC)	• Communicate and connect with the Independent Living Centers (ILC) and other access and functional need service providers.
California Southern Baptist Convention (SBC)	• Provide mass feeding units for shelters. • Recovery assistance after disasters.
The Salvation Army	• Care and shelter services during and after disasters recovery assistance.

Non-Governmental Agency	Responsibility
Voluntary/Community-Based Organizations	• Provide immediate and unmet needs such as food, shelter, clothing, mortgage, and rental assistance.

Federal Agency	Responsibility
US Department of Agriculture (USDA) Farm Service Agency	• Provide Emergency Loan Program for farmers' and ranchers' crop production and physical losses.
US Department of Health and Human Services	• Assists response to an actual or potential public health and medical disaster or incident.
USDA Food and Nutrition Service	• Provide Disaster Supplemental Nutrition Assistance Program (D-SNAP).
US Small Business Administration (SBA)	• Provide Economic Injury Disaster Loans (EIDL) available to small, non-farm businesses; small agricultural cooperatives; and most private, non-profit organizations of any size.
Federal Emergency Management Agency (FEMA)	• Aid post-disaster. • Coordinate Crisis counseling program. • Direct federal assistance if approved.
US Department of Labor	• Provide resources for and manage employment programs.
National Weather Service (NWS)	• Provide weather, water, climate data, forecasts, and warnings to protect life and property.

5.0 State Concept of Operations

The state operations described in this plan will be activated at the direction of the Cal OES Director. Local operations are generally activated according to local plans, policies, and procedures.

This plan may be activated during any of the following three phases:

- Phase I - Seasonal Readiness
- Phase II - Heat or Cold/Freeze Alert
- Phase III - Heat or Cold/Freeze Warning

These phases are activated based on the severity of risk to the general population including older adults, individuals with disabilities, and others with access or functional needs, as well as animals. The direct involvement of state and local governments is to protect individuals as the severity of risk increases.

The specific actions identified by the state departments/agencies in each of the phases are described in Appendix A: State Department/Agency Activation Activities. In addition to the actions described, the state may provide supplemental support to local activities during any of the three phases.

All state actions should be coordinated with the affected local governments, through the affected regions, and the local coordination links used by key state departments/agencies. It is essential that the affected local governments and all the key state departments/agencies are informed of actions taken during Phase II and Phase III by the state. It is equally important for the state to be apprised of local actions. These communications are facilitated through the Standardized Emergency Management System (SEMS) functions, the affected regions, activated EOCs, Cal EOC reports (online) at the region and SOC, and by phone calls, texts, and various other notifications to constituents. To see a list of local government actions, refer to Appendix B: Local Government Guidance.

During extreme temperatures, the Director of Cal OES may advise the Governor on local activities and needs. SOC activations may be enhanced as needed. The Director may convene key state agencies to identify any executive actions the Governor should be advised to take to alleviate the situation, including the proclamation of a state of emergency, potentially before a local emergency declaration is made. To see a list of local government actions, refer to Appendix B: Local Government Guidance.

Extreme Heat Event

When temperatures spike for three or more consecutive days without an adequate drop in nighttime temperature to cool the outdoor and indoor environments, there is a significant increase in the risk to older adults, individuals with disabilities, and people with access or functional needs. Therefore, the definition of a heat wave will consider both daytime maximum temperatures and nighttime maximum low temperatures.

Any individual, regardless of age, race, sex, or health status can develop heat stress if engaged in intense physical activity and/or exposed to environmental heat (and humidity). Physiological mechanisms maintain the core body temperature (i.e., the operating temperature of vital organs in the head or trunk) in a narrow optimum range around 98°F. When core body temperature rises, the physiologic response is to sweat and circulate blood closer to the skin's surface to increase cooling. Over a period of one-to-two weeks, exposure to conditions that elevate body temperature, along with physical activity, and/or environmental heat results in a process of physiological adaptation or acclimatization. When acclimatized, the body produces more dilute sweat, and heart rate and body temperature increase less than when not acclimatized.

Current best practices are to utilize the climate-region-specific criteria, also known as *HeatRisk*, detailed in Appendix C: National Weather Service Products. When NWS forecasters predict a heat wave for a given region, the NWS will issue alerts in the form of a Partner Email, Watch, or Warning. The product choice is based on how far in advance of the event they are making the prediction. Specifically:

- A **Partner Email** is issued three to seven days in advance of a heat wave to give advance notice of the possibility of excessively hot conditions. Forecast temperatures are anticipated to be in line with those necessary to issue an Excessive Heat Warning. If predicted weather conditions continue to hold, a Partner Email may become an Excessive Heat Watch.
- An **Excessive Heat Watch** is issued 36-48 hours prior to an event to give advance notice of the possibility of excessively hot conditions. Criteria match those of an Excessive Heat Warning.
- An **Excessive Heat Warning** is issued 0-36 hours prior to an excessive heat event that is expected to last two days or more.

State-level planning efforts are based on NWS products. Heat-related preparation and response activities should be carried out in consultation and coordination with state agencies, Cal OES Regions, and OAs that are impacted using the State Activation Phases as guidelines to determine the most appropriate level of state response. All state communication will be delivered using accessible platforms and formats.

Extreme Cold/Freeze Event

The NWS has regionally specific packages of weather products. **California's specific weather products are as follows:**

- **Frost Advisories -** These are generally issued during the late fall and again in the spring through May. No frost advisories are needed after a hard freeze in the fall. Multiple frost advisories may be issued for an area since each incidence of frost may be significant to certain growers. The important frost periods are the following:
    - First frost in the fall for an area to catch the "killing frost".
    - Any frost once the bud stage has started for fruits and stone fruits (nuts).
- **Freeze/Hard Freeze Watches -** A Freeze Watch is issued when there is a potential for significant, widespread freezing temperatures within the next 24-36 hours.
- **Freeze/Hard Freeze Warnings -** These are issued when significant, widespread freezing temperatures are expected.

These weather products are generally confined to the active agricultural areas. This is roughly the area below about 2,000 feet. Geographically, this includes the entire Central Valley and lower foothills, the Delta, and the area near Clear Lake. Frost results from the external freezing of water, and because frost is primarily formed by radiational cooling, it may occur when temperatures are above 32°F. Refer to Appendix C: National Weather Service Products for more information.

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6.0 State Activation Phases

State-level planning efforts are based on NWS products. Preparation for extreme temperatures and response activities should be carried out in consultation and coordination with state agencies, Cal OES Regions, and impacted OAs.

The following phases are guidelines to determine the most appropriate level of response:

Phase I - Seasonal Readiness

Phase I actions are taken in the hotter months for extreme heat (May through August) and in cooler months for extreme cold/freezing (November through February) to prepare for and maintain a state of increased readiness.

Phase I actions may include the following:

- Orientation and training of plans and procedures.
- Review of existing plans, procedures, and resources.
- Verification of use/availability of key facilities and resources.
- Updating/validating alert and warning notification processes.
- Initiating public awareness campaigns through various media outlets.

For the complete list of Phase I actions see Appendix A: State Agency Activation Actions. For a helpful list of resources and supplies to prepare for extreme temperatures refer to Appendix D: Information Resources for Preparedness and Response. For information on public information refer to Appendix E: State Dissemination of Public Information.

Phase II - Heat or Cold/Freeze Alert

Phase II actions are taken because of credible predictions by the NWS of excessive heat, cold, or of power disruptions during abnormal weather conditions. During this phase, contact with local agencies and coordination among state agencies increases. Location of the extreme temperatures may affect the triggering of this phase. For example, extreme heat in the southeastern portions of the state during the hotter months would be normal. If watches and warnings are extended for more than three days or nights this does not automatically initiate Phase II of the plan.

Phase II actions may be initiated when one or more of the following exists or at discretion of the Cal OES Director:

- NWS issuing a Cold or Freeze Warning indicating extreme cold or hard freeze for three days or more.
- Issuance of an Excessive Heat Warning with three nights or more with poor overnight recovery.
- NWS issuing an Excessive Heat Watch that lasts for five or more days consecutively.
- The credible prediction of power disruptions, Public Safety Power Shutoffs, or rotating blackouts (e.g., CA ISO Energy Emergency Alert 3, notifications from another electric balancing authority) during periods of high heat or cold weather.
- Notification(s) from an OA(s) that the jurisdiction is issuing a special notice (warning, alert, etc.).
- An abnormal animal mortality rate or loss of agricultural crops associated with an extreme temperature.

Phase II actions may include the following:

- An initial coordination call among the key state departments/agencies and the potentially affected OAs and regions.
- Conduct additional coordination calls as needed with weather and power updates.
- Increasing public information efforts to include conducting outreach to community-based organizations, whole community stakeholders, and access and functional needs partners to brief on the situation and provide initial recommended actions.
- Contacting local public health and other officials to encourage contact with individuals at high risk during extreme temperatures.
- Confirming roles and identifying specific local needs.
- Confirming details of agency participation and staffing.
- Stand-by and activation (if needed) of state-owned facilities as cooling or warming centers.

For the complete list of Phase II actions see Appendix A: State Department/Agency Activation Actions. For helpful information on the health effects of extreme temperatures on both humans and animals see Appendix F: Health Information and High Risk Populations and Appendix G: Animal Vulnerabilities in Excessive Heat or Cold/Freezing Temperatures.

Phase III - Extreme Heat or Cold/Freeze Warning

Phase III actions are taken when conditions in one or more OAs pose a severe threat, when one or more of the following exists, or at the discretion of the Cal OES Director:

- Notification from an OA that one or more jurisdictions have proclaimed an emergency related to extreme temperatures.
- NWS extreme cold/freeze warnings or wind chill warnings indicate weather conditions of extreme cold/freeze conditions that endanger human life with credible weather forecasts of more than three consecutive days. These weather conditions include low daytime temperatures accompanied by night temperatures of 32°F, or less.
- NWS issues excessive heat warnings that indicate heat that can endanger human life with credible weather forecasts of three consecutive days or more. These weather conditions include temperatures at or above record levels for daytime highs and overnight lows.
- Higher than normal medical emergencies and mortality due to extreme temperatures.
- Higher than normal animal mortality rates due to extreme temperatures.
- Energy notifications from an electric balancing authority (e.g., CA ISO Energy Emergency Alert) and/or extended power disruptions during expected extreme temperatures.

Phase III actions include the following:

- Coordination calls will increase as needed.
- Engage with state and local programs, including housing and homelessness programs.

- Coordinating with local jurisdictions to ensure accessible transportation is being provided for individuals with access or functional needs, including individuals experiencing homelessness, to and from cooling/warming centers.
- Activation of the SOC as needed.
- Coordinating requests for mutual aid and state assistance in accordance with SEMS.
- Mobilizing warming or cooling centers if requested.
- The Governor may proclaim a State of Emergency in the affected area.

For the complete list of Phase III actions see Appendix A: State Department/Agency Activation Actions.
For information on power disruptions, see Appendix H: The Electrical Grid and CAISO. Also see Appendix I: Cooling or Warming Center Checklist and Appendix J: Infectious Disease and Cooling/Warming Centers for helpful information supporting the operation of cooling and warming centers.

Key Decisions

Key state decisions to consider during an extreme temperature emergency include the following:

- Activating the Medical and Health Coordination Center (MHCC).
- Activating the SOC.
- Activating the AFN/Priorities Population Task Force, if appropriate.
- Scheduling and coordination of conference calls.
- Identifying state assets that can be used as cooling/warming centers.
- Opening and staffing of cooling/warming centers.
- Prioritizing resource allocations.
- Proclaiming an emergency and/or requesting a federal disaster declaration, if appropriate.

Critical Information Requirements

The following is critical information required during an extreme temperature emergency:

- Accurate weather forecasts as well as accurate list of impacted areas.
- Information on impacted areas and populations with access, functional, medical, or other needs.
- Cooling/warming center locations, times of operation, and instructions.
- Backup power generation capabilities of cooling/warming centers and critical facilities.
- Any Public Safety Power Shutoffs (PSPS) or unplanned power disruptions affecting the impacted area(s).
- Local transportation resources including accessible paratransit services.
- Impacts to critical facilities such as hospitals and nursing homes.
- Food and agricultural information of the affected areas relative to the impact of extreme temperatures.
- Agricultural damage estimates and significant economic impacts of the extreme temperature emergency.
- Requests/needs for state assistance.
- Status of local and/or state proclamations.
- Identification of state priorities.
- Identification and integration of local/OA and state priorities and supporting objectives (communicated at all levels).

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7.0 Recovery

Cal OES responds to and aids in the recovery from emergencies under the California Emergency Services Act (ESA), the California Disaster Assistance Act (CDAA), the federal Stafford Act, and other disaster related legislation. Cal OES aids local governments, special districts, tribal nations, certain nonprofit organizations, individuals, businesses, and agricultural communities impacted by disaster(s).

Public Assistance

Extraordinary emergency costs (such as overtime or equipment rental) incurred by local government in response to an extreme temperature-related disaster may potentially be recovered (on a cost share basis) under the California Disaster Assistance Act (CDAA) when the Governor has proclaimed a State of Emergency. Eligible costs may include the extra costs related to establishing cooling or warming centers, staffing the EOCs, renting generators, air conditioners, or heaters for the emergency sheltering effort, emergency public information costs, fatality management costs, and overtime costs for police, fire/rescue, and medical activities directly related to extreme temperatures. Additionally, funding can be provided (on a cost-share basis) to repair publicly owned facilities or infrastructure if damaged by the extreme temperatures. This includes damaged transformers and other electrical equipment owned by a public utility.

If the response and repair costs meet federal thresholds, the Governor may request, through FEMA, a Presidential Declaration of a Major Disaster, opening federal funds for these same applications under the Stafford Act. The federal Emergency Repair Program of Federal Highways Administration may be independently activated so highways in the Federal Aid System can be covered for heat or cold damage.

Individual Assistance

In response to severe economic impacts in a disaster area, the Recovery Individual Assistance (IA) Section works closely with a variety of local, state, and federal agencies to identify recovery programs that may potentially be able to assist individuals, businesses, and farmers. Some of the departments/agencies the IA Section coordinates with are:

- **CA Employment Development Department (EDD)**
  Disability Insurance, Paid Family Leave, Unemployment Insurance, Disaster Unemployment Assistance, Tax Collection, and Workforce Services.
- **CA Department of Community Services and Development (CSD)**
  Community Service Block Grants (CSBG) - Low-Income Home Energy Assistance Program (LIHEAP), migrant worker programs, and various other grant assistance.
- **CA Department of Health Care Services (DHCS)**
  Crisis Counseling Immediate Services Program and Crisis Counseling Regular Program.
- **CA Department of Developmental Services (DDS)**
  Purchase of emergency services and support, via local regional centers, to protect the health and safety of persons with developmental disabilities.
- **CA Department of Housing and Community Development (HCD)**
  Funds may be redirected through local housing authorities to assist with housing needs.
- **CA Department of Social Services (CDSS)**
  CalWORKs cash aid and services (including immediate need) and CalFresh (including expedited service and/or Disaster CalFresh benefits) food commodities programs.
- **U.S. Department of Agriculture (USDA)**
  Emergency Loan Program for farmers and ranchers for crop production and physical losses and other direct assistance through special legislation. Food and Nutrition Service, D-SNAP.
- **U.S. Small Business Administration (SBA)**
  Economic Injury Disaster Loans (EIDL) available to small, non-farm businesses; small agricultural cooperatives; and most private, non-profit organizations of any size.
- **Voluntary and Community-Based Organizations**
  Immediate and unmet needs such as food, shelter, clothing, mortgage, and rental assistance.

Assistance Centers

Assistance centers may be set up to provide information and assistance to disaster survivors. If the centers are opened, Cal OES Public Information Officer (PIO) will support local PIOs in issuing press releases to request the media to make the information on assistance centers available and conduct outreach through local government and community-based organizations.

Agricultural Recovery

Agricultural damage assessments may be conducted to determine if a request should be submitted to the USDA to approve a disaster designation making available emergency loans for physical production losses to eligible applicants who conduct family-sized farming operations. Following a natural disaster designation by the USDA Secretary, the SBA makes Economic Injury Disaster Loans (EIDL) available to small, non-farm businesses; small agricultural cooperatives; and most private, non-profit organizations of any size. Assessments will also be made to determine if a presidential disaster declaration may be requested to access disaster unemployment insurance or crisis counseling programs.

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Appendix A: State Department/Agency Activation Actions

The following tables describe the activities that should be taken by state departments/agencies during the three phases of this plan.

Phase I - Seasonal Readiness

Seasonal readiness begins annually in May as the warmer months approach for extreme heat and in November as colder months approach for extreme cold/freeze.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
Key State Response Departments/Agencies	• Review their own procedures and resources to identify any capabilities, gaps, issues, or problems. • Collaborate to identify any anticipated state-wide needs or problems. • Coordinate with power balancing authorities (e.g., CA ISO) and municipal utilities to determine power availability.
CA State Warning Center	• Establishes link with NWS for weather alerts, watches, and warnings.
Cal OES Situation Cell	• Maintain situational awareness with weather forecasts. • Clarify and define weather forecast with the National Weather Service. • Conduct outreach to regions to gather information on actions taken by counties. • Develop and disseminate Situation Cell Weather Outlook as needed and include a plan assessment detailing/clarifying current phase. • Analyze plan and make recommendations of actions to be taken and possible phase movement. • Facilitate an initial coordination call and periodic or daily calls as needed among the key state

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
	departments/agencies and the potentially affected OAs and regions with weather and power updates.
Cal OES Response Operations and Affected Administrative Regions	• Cal OES review the Extreme Temperature Response Plan. • Coordinate to determine the readiness and availability of resources. • Initiate communication with key state departments/agencies. • Coordinate with Cal OES Office of Crisis Communications and Public Affairs (OCCPA) to post seasonal readiness campaign material on the Cal OES website and other various media sources. • Coordinate with the Office of Access and Functional Needs (OAFN) to review guidance and best practices, and review contract needs for AFN community. • Contact OAs to determine what seasonal efforts are in place at the local level. • Facilitate Mutual Aid Regional Advisory Committee (MARAC) presentations by NWS.
Cal OES Office of Crisis Communications and Public Affairs (OCCPA)	• Prepares general media statements to increase awareness of the risk from extreme temperatures for the general public, including older adults, individuals with disabilities, and anyone with access or functional needs. • Promotes CA Health and Human Services Agency (CHHSA) seasonal readiness campaign material; including a reminder to the AFN community to identify their local paratransit/transportation providers that would be used in emergencies or disasters.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
	• Coordinates any ongoing seasonal preparedness media campaign information about the risk from extreme temperatures and ways to mitigate effects. • Issues pre-scripted tips to media outlets, local government through SEMS, websites, service clubs, associations, NGOs, volunteer organizations, and faith-based organizations. • Leverages social media channels to amplify messaging.
CA Department of Food and Agriculture (CDFA)	• Reviews NWS watches and warnings and advises Cal OES of any potentially serious agriculture or livestock issues. • Identifies a Public Information Officer (PIO) to coordinate emergency public information with Cal OES. • Identifies potential fairgrounds/facilities for use as cooling or warming centers. • Provides animal removal, disposal, and rendering information. • Provides guidance to local Agricultural Commissioners. • Coordinate to determine the readiness and availability of resources.
CA Department of General Services (DGS)	• Provides Cal OES with an updated list of state facilities that could be used for cooling or warming centers. • Provides vendors for air conditioners, generators, and other warming/cooling supplies and equipment.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
CA Employment Development Department (EDD)	• Provides Cal OES OCCPA information related to assistance programs that will be available in excessive heat conditions as applicable to farm workers and related businesses whose workers may lose employment due to the weather conditions. • Prepares to respond to possible increase in unemployment resulting from extreme temperature emergencies.
CA Department of Education (CDE)	• Notifies schools to review school procedures and practices for measures schools should take in extreme temperature emergency conditions.
CA Environmental Protection Agency (CalEPA)	• Maintains the Emergency Animal Disposal Guidance.
CA Department of Public Health (CDPH)	• Identifies a PIO to coordinate emergency public information with Cal OES. • CDPH Licensing and Certification (L&C) monitors extreme temperature-related unusual occurrences reported by long term care facilities in affected areas until they are resolved and provides the reporting process long-term care facilities must follow to report any unusual occurrence related to the extreme temperature and for any facilities to report problems with information on caring for patients/residents during extreme temperature conditions. • Provides information regarding cooling/warming center operations during a pandemic event, as needed. • Coordinates with partner agencies to determine the readiness and availability of public health resources.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
CA Division of Occupational Safety and Health (Cal/OSHA)	• Continues multilingual heat illness prevention media campaign using radio, billboards, wallboards, and social media. • Reaches out to and educates employees, employers, and community-based organizations about the hazards of heat exposure and the methods to protect workers from heat illness and comply with the Heat Illness Prevention regulation. • Reviews and updates *Heat Illness Prevention Special Emphasis Program* and provides training to staff on any program changes. • Compile's statistics and prepares reports summarizing heat inspection data.
CA Department of Social Services (CDSS)	• Disaster Services Branch (DSB) - Monitors the situation with the American Red Cross and the Department's internal and local partners. • Community Care Licensing Division (CCLD) – Releases and communicates extreme temperature-related information and tips to licensees through mass-emails and a "robocall system"; posts information on the CCLD website; and includes in licensing quarterly updates. Request's provider and advocacy organizations to include the information in their newsletters and other communications to licensees. • CCLD - During annual visits, including but not limited to those conducted by tele-visits and virtual video conferencing, reviews facility emergency and disaster plans to ensure that they are current and includes the required content for emergencies and disasters. • Adult Programs Division (APD) – County In-Home Supportive Services/Adult Protective Services (IHSS/APS) programs follow the instructions in the All-

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
	County Letter (ACL) issued by CDSS APD regarding their action to be taken in extreme temperature-related events and emergencies. Each county uses their targeted list to contact those individuals identified as the most at-risk group in their IHSS/APS population.
CA Emergency Medical Services Authority (EMSA)	• Disseminates hazard-related information to regional and local medical partners. • Prepares to provide medical assistance upon request to support local medical system needs. • Coordinates with partner agencies to determine the readiness and availability of resources. • Coordinates with the RDMHSs and MHOACs.
CA Department of Developmental Services (DDS)	• Quality assurance system ensures that state operated facilities emergency preparedness plans are reviewed, updated, and sufficient to address the needs of all possible emergencies and disasters. • Contract requirements for regional center's emergency preparedness plans are monitored for compliance. • Notifies community-based programs serving people with developmental disabilities regarding any status changes and monitor their status.
CA Department of Health Care Services (DHCS)	• While on-site for annual facility reviews or conducting virtual site visits, Mental Health Licensing Section (MHLS) analysts ensure that the Mental Health Rehabilitation Centers (MHRC) and Psychiatric Health Facilities (PHF) *Disaster and Emergency Preparedness Plans* are reviewed, updated, and sufficient to address the needs of all possible emergencies and disasters.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
	As a best practice, the Substance Use Disorder Licensing and Certification Section (SUDLCS) recommends that Alcohol and Other Drug (AOD) residential and outpatient programs maintain *Disaster and Emergency Preparedness Plans*. While on-site for biennial facility reviews or conducting virtual site visits, SUDLCS analysts ensure that these *Disaster and Emergency Preparedness Plans* are reviewed, updated, and sufficient to address the needs of all possible emergencies or disasters. • While on-site for annual facility reviews or conducting virtual site visits, Counselor and Medication Assisted Treatment Section (CMATS) analysts ensure that the Narcotic Treatment Program (NTP) *Disaster and Emergency Protocols* are reviewed, updated, and sufficient to address the needs of hazards, emergencies, and disasters. • Ensures ongoing updates to the NTP Facilities emergency contact information as programs modify their contact information. • Maintains and update current telephone numbers of County Behavioral Health Directors Association of California (CBHDA).
CA Department of Rehabilitation (DOR)	• While on-site for biennial facility reviews or conducting virtual site visits, Driving Under the Influence Licensing Section (DUILS) analysts discuss the program's established protocols for addressing possible hazards, emergencies, and disasters • Notifies community-based organizations serving people with disabilities. • Remains available to advise Cal OES on potential issues and needs of the community.

Responsible Department/Agency	Phase I – Seasonal Readiness Activities
CA Department of State Hospitals (DSH)	• DSH emergency preparedness management staff review the Cal OES Extreme Temperature Response Plan and communicates with employees about preparation for heat/freeze conditions and offers useful safety tips/resources, as necessary.

Phase II - Heat or Cold/Freeze Alert

Phase II actions may be taken when a **heat or cold/freeze alert** is issued by the NWS or at the discretion of the Cal OES director when extreme temperature is predicted for an OA or power disruptions occur during abnormal weather conditions.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
National Weather Service (NWS)	• The NWS sends extreme temperature watch notifications to CSWC. • Coordinates partner emails and calls.
CA State Warning Center (CSWC)	• Notifies Cal OES, CDPH, and EMSA Duty Officers, the Cal OES Regional Administrators, the Governor's Office, and executive staff that the NWS has issued a statement indicating likely extreme temperatures.
Cal OES Situation Cell	• Develops and disseminates Situation Cell Incident Reports to Cal OES executives, Duty Officers, and state department/agency partners. • Conducts outreach to state departments/agencies outlined in Phase II for a roll-up on their activities for the event. • Continues to work with Administrative Regions to provide actions taken by counties. • Continues to clarify and define weather forecasts with the NWS.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	• Continually analyze the weather event for changes in duration or impacts.
Cal OES Response Operations and Affected Administrative Regions	• Disseminates the scope of the alert to the OAs. • Determines the current situation, readiness, and availability of potentially needed resources. • Coordinates with local governments to determine if supplemental support to local activities will be requested. • Cal OES Region contact OA emergency managers in affected areas daily for updates. • Initiates the daily conference calls and reports with key state response departments/agencies. • Schedules conference calls once daily concerning weather, electrical power, and situational status. • Coordinates public information efforts with OCCPA. • Stands-by to activate the SOC as needed. • Develops staffing patterns as necessary. • Briefs the Governor's Office and state senior leadership daily. • Identifies gaps in contacts, especially with older adults, individuals with disabilities, anyone with access or functional needs, community-based organizations, community stakeholders, cooling/warming centers, and accessible transportation resources. • Tasks state departments/agencies to augment local cooling/warming centers in the affected area and identifying available non-state fairground facilities to utilize in support of local government. • Contacts local emergency management, EMSA contacts local emergency medical, and CDPH contacts local public health offices to determine the

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	adequacy of accessible transportation for older adults, individuals with disabilities, and anyone with access or functional needs. • Responds appropriately to all requests for assistance. • Cal OES Law Enforcement Branch coordinates with county coroners' offices to track mortality data. • Cal OES Law Enforcement Branch coordinates security for state cooling/warming centers, if necessary.
Cal OES, Office of Access and Functional Needs (OAFN)	• Ensure communication access (e.g., ASL services and world language translation) at cooling/warming centers. • Notifies community-based organizations serving people with AFN regarding any status changes and advises on potential issues and needs of the community. • Works with partners to supports physical and programmatic accessibility at all shelters and cooling/warming centers. • Provides guidance to whole community partners and advises stakeholders on appropriate measures to take in the extreme temperature warning conditions. • Works with community partners and stakeholders to identify and address unmet needs. • Provides best practices, technical assistance, and guidance. • Supports governmental partners via accessibility related contracts to support operations.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
Cal OES, Office of Crisis Communications and Public Affairs (OCCPA)	• Releases critical pre-scripted and public safety information. • Distributes the extreme temperature emergency pre-scripted educational materials to the impacted OAs and Cal OES Regional Administrators. • Considers scheduling press briefings to ensure the public is kept informed concerning actions underway and assistance available. • Issues needed materials focused on older adults, individuals with disabilities, and anyone with access or functional needs with links to local resources. • Cal OES, CDPH, and EMSA Public Information Officers (PIOs) are notified and briefed by their respective duty officers. In coordination with other identified state agencies, considers issuing joint press releases. • Requests other state department or agency PIOs and Cal OES Regional Administrators to distribute to the impacted OAs the following: o Distributes extreme temperature-related educational materials. o Provides information on state-operated cooling/warming centers. • Notifications by Cal OES and/or CDPH, EMSA, and Cal/OSHA to specific businesses and sport venues, outdoor public events, with specific risk reduction guidance. • Notifications by Cal OES and/or CDPH strongly encouraging community agencies to check on older adults, individuals with disabilities, and anyone with an access or functional need, known to the county, or served by the county-run programs, including but not limited to the following:

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	○ Single Resident Occupancy (SRO) buildings. ○ Neighbors, those living alone, children, individuals with high medical risk, individuals living alone, and individuals with access or functional needs.
CA Department of Food and Agriculture (CDFA)	• Identifies state owned fairground facilities to be used for cooling/ warming centers if requested by Cal OES, including non-state-owned fairgrounds for use, if needed. • Activates cooling/warming centers (state owned fairgrounds) if requested by Cal OES in support of local governments. • Conducts outreach to agricultural commissioners and growers if significant agricultural impacts expected. • Provides guidance on livestock animal disposal.
CA Department of Aging (CDA)	• Instructs local Ombudsman programs to report to CDA any complaints from skilled nursing or residential care facilities which they receive related to temperature conditions in the facility or health and safety issues related to the extreme temperatures. • Advises all CDA contractors of the extreme temperature warnings; public health alerts being issued; and the availability of heat tip sheets that are available on the Cal OES, CDPH, and CDA websites for dissemination. • Requests CDA contractors to report to CDA any shortages of supplies and equipment that contractors encounter due to extreme temperatures. • Instructs CDA contractors to continue to provide them with updated temperature-related information until the extreme weather condition ends.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
CA Department of General Services (DGS)	• Provides a list of state facilities that could be used for cooling/warming centers.
CA Employment Development Department (EDD)	• Provides access to EDD Individual Assistance for Unemployment. (This program is available on regular basis.) • Anticipates the possible need for providing access to Insurance and Disaster Unemployment Assistance (funded by Department of Labor through EDD in the case of a presidential disaster declaration) and take preparatory actions as appropriate to the situation.
CA Department of Education (CDE)	• Notifies schools to review procedures and practices for measures schools should take in extreme temperatures.
CA Environmental Protection Agency (CalEPA)	• Maintains the Emergency Animal Disposal Guidance.
CA Department of Public Health (CDPH)	• Disseminates information specific to the extreme temperatures to local health departments via conference calls and/or the California Health Alert Network (CAHAN) and, in coordination with EMSA, disseminate information specific to the heat alert event to the Medical and Health OA Coordinators (MHOACs), Regional Disaster Medical Health Specialist (RDMHS), and Local Emergency Medical Services Agencies (LEMSAs) via conference calls and/or CAHAN. • Contacts and coordinate via conference calls and CAHAN with local health departments, CDPH executive staff and programs (e.g., Licensing and Certification, Emergency Preparedness Office (EPO), and the Office of Public Affairs (OPA). • CDPH's L&C notifies Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICF).

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	• CDPH's L&C monitors heat or cold-related unusual occurrences reported by long term care facilities in affected areas until they are resolved. • CDPH/EMSA MHCC Operations/EPO Duty Officer collects Public Health and Medical situation reports from local health departments in affected areas. • CDPH's L&C provides the reporting process long term care facilities must follow to report any unusual occurrence related to the extreme temperatures and any facilities that report problems with information on caring for patients or residents during extreme temperatures. • CDPH, EMSA, and Cal OES, through the RDMHS, contact local emergency management, local emergency medical, and local public health offices to determine potential unmet needs for older adults, individuals with disabilities, and anyone with access or functional needs. • Provides information regarding cooling/warning center operations during a pandemic event, as needed.
CA Division of Occupational Safety and Health (Cal/OSHA)	• Ensures all routes through which complaints may be filed are constantly monitored, including, but not limited to, walk-ins, phone, fax, emails, and referrals from other units. • Responds to complaints about unsafe workplace due to high heat conditions. • Ensures that all reports of suspect heat illnesses/fatalities are investigated as soon as feasible. • Holds bi-weekly heat calls from May through September to review past and upcoming activities,

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	obtain feedback on operations, review heat illness and fatality cases, and provide ongoing instruction. • Notifies management and Public Information Office when the NWS has issued a statement indicating likely extreme temperatures. • Works with the Public Information Office to issue heat illness prevention reminders.
CA Department of Social Services (CDSS)	• DSB - Monitors the extreme temperature situation with the American Red Cross and the Department's internal and local partners. • DSB - Coordinates with internal partners' *Extreme Temperature Response Plan* responsibilities and ensure that the Department reports out all necessary information. • DSB - Identifies staffing to assist local government with cooling or warming center/shelter operations when local resources can no longer meet staffing needs, in accordance with SEMS. • CCLD - Monitors any unusual heat or cold/freeze-related occurrences or emergencies reported by community care licensees and aids as needed. • CCLD - During site visits, tele-visits, virtual video conferencing, and other interactions, encourages licensees in the affected geographic areas to implement extreme temperature-related tips to protect persons in care, such as: making sure persons in care are hydrated and remain in air-conditioned interior spaces during peak hours of heat or when the weather is coldest, provide adequate heating and ensure persons in care have weather appropriate supplies (e.g., blankets). Remind licensees to consult extreme temperature-related information and tips posted on the CCLD website as necessary.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	• CCLD - As necessary, during other site visits, tele-visits or virtual video conferencing, reviews facility emergency and disaster plans to ensure that they are current and include the required content for emergencies. • APD - Considers issuing an electronic alert to county welfare directors, public authorities, and county IHSS/APS program managers instructing them to implement their individual county plans or protocols to help ensure the safety of their most at risk IHSS/APS recipients/consumers. • APD - CDSS posts extreme heat weather or cold/freeze advisory tips/information. CDSS APD prepares to forward this information to each county, the CA Association of Public Authorities (CAPA), and the California Welfare Directors Association (CWDA) when an extreme temperature alert is issued. • EFAP - Establishes communications with the local food banks to assess any increased participation rates. • EFAP - Provides additional food to the food banks when necessary and available. • CalFresh - CalFresh (including expedited service, individual replacements, and/or Disaster CalFresh benefits) food commodities programs • CalWORKs - cash aid and services (including immediate need)
CA Emergency Medical Services Authority (EMSA)	• Communicates EMSA's activities to executive management and CHHSA. • Coordinates with CDPH information dissemination to local public health officers/departments, the MHOACs, Regional Disaster Medical Heath Coordinators (RDMHCs), RDMHS, and LEMSAs.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	• Maintains communications with RDMHSs, MHOACs, and LEMSAs to identify potential needs for medical assistance to local government. Coordinates with CDPH and CDSS for medical support needed in support of local or state shelters. • Tracks hospitalization and weather injury data through Local Emergency Medical Services Agencies.
CA Department of Developmental Services (DDS)	• Ensures that all regional centers and state operated facilities are alerted to any heat or cold/freeze advisories and/or warnings and alerts that impact their geographic area. • Regional centers and state operated facilities implement various procedures to protect the health and safety of residents and staff, including, but not limited to the following: o Curtails or suspends outdoor activities. o Closes training sites that lack air conditioning or that lack adequate heating. o Provides for alternate activities for residents in air conditioned or heated areas. o Provides extra fluids, sunscreen, and modified clothing. o Adjusts employee work schedules to avoid strenuous assignments during afternoon heat. o Distributes reminders to staff regarding precautionary measures. o Initiates contact with their community emergency preparedness networks to identify cooling or warming sites and resources for assisting persons to access those sites if needed. o Initiates contact with service providers and consumers who live independently to provide

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	them with information about precautionary measures for protecting the health and safety of consumers and staff, identification of cooling/warming sites, and other pertinent information.
CA Department of Health Care Services (DHCS)	• DHCS Licensing and Certification ensures that all MHRCs and PHFs are alerted to any heat advisories and/or warnings and alerts that impact their geographic area. • DHCS Licensing and Certification ensures that host counties Mental Health Practitioners (MHPs) of MHRCs and PHFs are alerted to any heat advisories and/or warnings and alerts that impact their geographic area and will request the MHP monitor and provide appropriate assistance to the facility under their jurisdiction as needed. • DHCS Licensing and Certification provides heat-related tips/information to all MHRCs and PHFs. Specifically, DHCS Licensing and Certification will request all providers of MHRCs and PHFs to implement numerous procedures to protect the health and safety of residents and staff, including but not to be limited to: o Provides the contact information to the community emergency preparedness networks to identify cooling/warming sites and resources for assisting persons to access those sites if needed. o Curtails or suspends outdoor activities. o Provides for alternate activities for residents in air conditioned or heated areas. o Provides extra fluids, sunscreen, and modified clothing.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
	○ Distributes reminders to staff regarding precautionary measures. • While on-site for annual reviews, the DHCS licensing reviewer ensures that the MHRC and PHF facility disaster and emergency preparedness plans are reviewed, updated, and enough to address the needs of all possible emergencies and disasters. • Outdoor activities are limited, and preventative cool-down rests are encouraged.
CA Department of State Hospitals (DSH)	• Ensures that all five state hospitals at Atascadero (San Luis Obispo County), Coalinga (Fresno County), Metropolitan (Los Angeles County), Napa (Napa County), and Patton (San Bernardino County) are activating their heat or cold temperature plans when environmental triggers are reached. These triggers will be based upon Cal/OSHA requirements and CDPH licensing thresholds and regulatory guidance. • All hospitals ensure that clinical staff carefully monitors patients taking antipsychotic and other forms of medications that have possible drug/heat or sun exposure interactions. • Provides hats, sunscreens, water, shade/cooling areas, and prompts to drink fluid are provided for patients and employees as needed. • Each DSH Hospital Health and Safety Office distributes timely reminders and training to staff regarding precautionary measures to prevent heat related illness.

Responsible Department/Agency	Phase II Heat or Cold/Freeze Alert Activities
CA Military Department (Cal Guard)	• Prepares to assist the affected area with personnel and transportation if the situation is expected to be widespread, prolonged, or compounded by power disruptions, if needed. • Prepares to open National Guard Armories as cooling/warming centers, if needed.
CA Department of Community Services & Development (CSD)	• Administers Community Services Block Grants (CSBG), Low Income Home Energy and Household Water Assistance Programs (LIHEAP/LIHWAP), Low Income Weatherization Program (LIWP), and other program designed for low-income individuals and households.

Phase III - Heat or Cold/Freeze Warning

Phase III actions should be taken when the NWS issues an extreme temperature warning, a local jurisdiction or an OA proclaims an emergency due to a **heat or cold/freeze warning**, or at the discretion of the Cal OES Director.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
National Weather Service (NWS)	• Sends extreme temperature warning notifications to CSWC.
CA State Warning Center (CSWC)	• Notifies Cal OES and regions, CDPH, and EMSA duty officers, the Governor's Office, and executive staffs that a heat, or cold/freeze emergency (warning) has been issued.
Cal OES Situation Cell	• Holds transition meeting with SOC Situation Status Unit (SitStat), if activated, to brief on the report and what actions have been taken. • Coordinates with SOC SitStat through at least one reporting period to answer questions and provide current situational awareness. • After SOC's first report, Situation Cell transitions out of reporting to its steady state operations.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
Cal OES Director	• Advises Governor on local activities and needs. • In conjunction with key state response departments/agencies, identifies any rules and executive actions the Governor may be advised to take to alleviate the situation, including the proclamation of a state of emergency by the Governor. • Requests a state of emergency proclamation by the Governor if conditions warrant.
Cal OES Response Operations and Affected Administrative Regions	• Notifies all key state departments/agencies involved with heat or cold warning response and provides current situation information. • Establishes a schedule for conference calls daily concerning weather, deaths, cooling or warming center locations and operations, electrical power, and operational status with emphasis on power generation status. • Activates the SOC as needed to appropriate levels. • Directs requested state resources as necessary to assist local government. • Develops Cal OES staffing patterns as necessary. • Cal OES and CDPH/EMSA MHCC develop incident action plans, if needed. • Establishes daily briefing schedule for Governor's Office and may establish a Unified Coordination Group (UCG), if needed. • Cal OES Regions contact and coordinate with all local emergency managers and identifies gaps in contacts between older adults, individuals with disabilities, and anyone with access or functional needs and cooling or warming centers.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	• Obtains identification of the cooling or warming center locations, including senior centers, community centers, shopping malls, churches, and other potential cooling/warming centers. • Advises affected local government to do wellness checks on older adults, individuals with disabilities, and anyone with access or functional needs. • Advises affected local government to implement plans for dealing with older adults, individuals with disabilities, and anyone with access or functional needs, including but not limited to SRO buildings and outreach to individuals experiencing homelessness and open accessible shelters as necessary. • Advises affected local government that has social service, public health, public safety, and community organizations to check on those most at risk including seniors living alone and those in single room occupancy buildings. • If requested by the affected area to augment local activities: o Cal OES tasks CDFA to open state fair cooling/warming centers in the affected area to augment local cooling/warming centers already open. o Cal OES may task the California Military Department (CMD)to provide Cal Guard personnel to assist the OA with person-to-person contacts and transportation to cooling or warming centers. o Cal OES, CDPH, and EMSA contact local emergency management and health offices to determine the adequacy of accessible transportation for older adults, individuals with

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	disabilities, and anyone with access or functional needs to cooling or warming centers as necessary. o Cal OES or DOR coordinates with CFILC to determine the adequacy of accessible transportation for individuals with disabilities living independently. o Cal OES Law Enforcement Section collects death-related information. o Cal OES Law Enforcement coordinates security for state shelters, if necessary.
Cal OES, Office of Access and Functional Needs (OAFN)	• Places staff on call, including qualified sign language interpreters, to aid, if necessary. • Notifies community-based organizations serving individuals with AFN regarding any status changes and advises on potential issues and needs of the community. • Advises on accessibility of, and taking measures to, ensure viability of shelters. Provides guidance and best practices as well as contracts available for affected communities. • Coordinates with ILC centers to advise on potential issues and determine needs of the community. • Assesses needs of individuals with AFN and relays information to appropriate affiliated department/agency.
Cal OES, Office of Crisis Communications and Public Affairs (OCCPA)	• Issues public notices, in coordination with CDPH and EMSA, on protective measures and to check on neighbors, children, older adults, individuals with disabilities, individuals at high medical risk, individuals living alone, and anyone with access or functional needs.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	• Considers activating a Joint Information Center (JIC) and requests PIO resources/representative(s) from appropriate departments/agencies.
CA Department of Food and Agriculture (CDFA)	• If tasked, opens fairgrounds in the affected areas to augment local cooling/warming centers already open. • Coordinates with animal carcass removal. • Contacts agricultural commissioners and growers if significant agricultural impacts are expected. • Shares information with agricultural industries regarding extreme heat/cold.
CA Department of Aging (CDA)	• Instructs local Ombudsman programs to report back to CDA any skilled nursing or residential care facility complaints they receive related to temperature conditions in the facility or safety issues related to the extreme temperatures. • Advises all CDA's contractors of the extreme heat emergency warnings, public health alerts being issued, and the availability of tip sheets that are available on Cal OES, CDPH, EMSA, and CDA websites for dissemination. • Requests that any shortages of supplies/equipment that contractors are encountering be communicated to CDA. • Reminds contractors that they need to request additional resources through their county office of emergency services. • Instructs CDA contractors to continue to provide them with updated extreme temperature-related information until the extreme weather condition ends.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
CA Employment Development Department (EDD)	• Provides access to EDD Individual Assistance for Unemployment. • Provides access to Insurance and Disaster Unemployment Assistance (funded by Department of Labor through EDD) if there has been a Presidential disaster declaration.
CA Department of Public Health (CDPH)	• CDPH and Cal OES PIOs are notified and briefed by their respective duty officers. • Contacts and coordinates activities with local health departments, CDPH executive staff and programs, and Office of Public Affairs (OPA) via conference calls and the CAHAN. • Coordinates with the MHOACs through the RDMHSs. • Issues press releases in coordination with EMSA and Cal OES, via the JIC at Cal OES, if activated. • Responds to the SOC, as requested by Cal OES. • L&C monitors heat or cold/freeze-related unusual occurrences reported by health care facilities in affected areas until they are resolved. • Collects public health and medical situation reports from local health departments in affected areas. • L&C provides the reporting process long term care facilities must follow to report any unusual occurrence related to extreme temperatures and any facilities that report problems with information on caring for patients or residents during extreme temperatures. • CDPH Primary and Rural Health Care Systems Branch provides a list of primary care clinics in the affected counties that provide services to patients regardless of ability to pay.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	• Provides information regarding cooling/warming center operations during a pandemic event, as needed.
CA Division of Occupational Safety and Health (Cal/OSHA)	• Ensures all routes through which complaints may be filed are constantly monitored, including, but not limited to, walk-ins, phone, fax, emails, and referrals from other units. • Responds to complaints about unsafe workplace due to high heat conditions. • Ensures that all reports of suspect heat illnesses/fatalities are immediately investigated. • Supplements field enforcement related to outdoor heat illness prevention by engaging in high-heat inspections. Conducts evaluations of targeted workplaces to determine compliance with heat illness prevention regulations. When an employer is in violation of the heat illness prevention regulation, ensures employer corrects any violations and achieves compliance with heat illness prevention regulation, including the provision of water, shade, training, and emergency procedures.
CA Department of Social Services (CDSS)	• Includes extreme temperature-related tips/information on CDSS' website, including local emergency response information provided by local emergency response agencies when an extreme temperature warning is issued. • DSB monitors the situation with the American Red Cross and the Department's internal and local partners. • DSB coordinates the completion of internal partners' *Extreme Temperature Response Plan* responsibilities

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	and ensure that the Department reports out all necessary information. • DSB identifies staffing to assist local government with cooling/warming center or shelter operations when local resources can no longer meet staffing needs, per SEMS. • CCLD ensures that all regional licensing offices are alerted to any extreme temperature advisories, warnings, and alerts that impact their geographic area. • CCLD releases information regarding declared extreme temperature emergencies, including how to find a local cooling or warming center, and posts on the CCLD website. Reminds licensees to consult the CCLD website or the regional licensing office, as necessary, for extreme temperature-related information and tips posted on. • CCLD monitors any unusual heat-related occurrences or emergencies reported by licensed community care licensees and aids as needed. • CCLD maintains contact with facilities that require evacuation of persons in care and assist, as needed, during the emergency. • APD – County IHSS/APS programs follow the instructions in the ACL issued by CDSS APD regarding their action to be taken in extreme temperature-related events and emergencies. Each county uses their targeted list to contact those individuals identified as the most at-risk group in their IHSS/APS population. As needed, APD may issue an electronic alert to county welfare directors, public authorities, and county IHSS/APS program managers.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	• APD maintains contact with county IHSS/APS programs, as needed, during the emergency. • EFAP coordinates with local county food banks to ensure that they have an adequate supply of food to meet any increased participation demands.
CA Emergency Medical Services Authority (EMSA)	• Communicates EMSA's activities to CHHSA. • EMSA and CDPH coordinates information dissemination to local public health officers/departments, MHOACs, RDMHS, and LEMSAs via conference calls, emails, and CAHAN. • Maintains communication with RDMHSs, MHOACs, and LEMSAs to identify potential needs for medical assistance to local government. • Provides extreme temperature-related tips/information to RDMHCs, RDMHSs, MHOACs, LEMSAs, and provider associations for inclusion to their websites and distribution lists. • Coordinates with CDPH and CDSS on potential medical support needed in support of local or state shelters. • Mobilizes medical mutual aid assets if requested. • Issues press releases in coordination with CDPH and Cal OES via the JIC at Cal OES, if activated. • Includes extreme temperature-related tips/information on EMSA's website, including local emergency response information provided by local emergency response agencies when an extreme temperature warning is issued. • Collects and disseminates data from LEMSAs and hospitals regarding temperature related injuries.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
CA Department of Developmental Services (DDS)	• Ensures that all regional centers and state operated facilities are alerted to any extreme temperature advisories, warnings, and alerts that impact their geographic area. • Regional centers and state operated facilities implement various procedures to protect the health and safety of residents and staff, including, but not limited to: o Curtails or suspends outdoor activities. o Closes training sites that lack air conditioning or heaters. o Provides for alternate activities for residents in air conditioned or heated areas. o Provides extra fluids, sunscreen, and modified clothing. o Adjusts employee work schedules to avoid strenuous assignments to avoid afternoon heat or hazards from extreme cold/freeze conditions. o Distributes reminders to staff regarding precautionary measures • Regional centers initiate contact with their community emergency preparedness networks to identify cooling/warming sites and resources for assisting persons to access those sites if needed. • Regional centers initiate contact with service providers and consumers who live independently to provide them with information about precautionary measures to protect the health and safety of consumers and staff, identification of cooling/warming sites, and other pertinent information.

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
CA Department of Health Care Services (DHCS)	• All facilities ensure that nursing carefully monitors patients taking antipsychotic and other forms of medications that have possible drug/heat or drug/cold exposure interactions. Outdoor activities are terminated as needed. • Contacts County Mental Health Directors and licensed facilities to ensure that they have all necessary information regarding locating cooling/warming centers and access to extreme temperature tips. Licensed facilities will determine if additional assistance is needed and take appropriate actions. • DHCS Licensing and Certification ensures that all MHRCs and PHFs are alerted to any extreme temperature advisories and/or warnings and alerts that impact their geographic area. • DHCS Licensing and Certification also ensures that host counties MHPs of MHRCs and PHFs are alerted to any heat or cold/freeze advisories and/or warnings and alerts that impact their geographic area and requests the MHP monitors and provides appropriate assistance to the facilities under their jurisdiction as needed. • DHCS Licensing and Certification provides extreme temperature-related tips and information to all MHRCs and PHFs. Specifically, DHCS Licensing and Certification requests all providers of MHRCs and PHFs to implement numerous procedures to protect the health and safety of residents and staff, including but not to be limited to the following: o Provides the contact information to the community emergency preparedness networks to identify cooling or warming sites and

Responsible Department/Agency	Phase III Heat or Cold/Freeze Warning Activities
	resources for assisting persons to access those sites if needed. o Curtails or suspends outdoor activities. o Provides for alternate activities for residents in air conditioned or heated areas. o Provides extra fluids, sunscreen, and modified clothing. o Distributes reminders to staff regarding precautionary measures.
CA Department of State Hospitals (DSH)	• Ensures that all State Hospital facilities are alerted to any extreme temperature advisories, warnings, and alerts that impact their geographic area. • Implements procedures to protect the health and safety of patients and staff as directed by site specific illness prevention plans and Administrative Directives. • Initiates contact with service providers caring for patients being treated in community programs to ensure that precautionary measures to protect the health and safety of patients and staff are implemented.
CA Military Department (Cal Guard)	• Utilizes Cal Guard personnel and transportation, if mission tasked, to support local governments if the situation is widespread, prolonged, or compounded by power disruptions. • Opens cooling/warming centers, if tasked.
California Volunteers (CalVolunteers)	• Ensures that CV volunteer organizations are contacted and utilized as appropriate.

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Appendix B: Local Government Guidance

Guidance - Roles and Responsibilities

This plan recognizes that local agencies may have a system for managing extreme temperatures. It also recognizes that those systems should be consistent with SEMS. It is the intent of this guidance to provide a tool to further assist local efforts and to better coordinate with efforts initiated by state departments/agencies. The guidance is intended to be flexible to fit unique community needs.

Local Government Checklists

The following are some recommended actions that if applied, can assist local government in addressing extreme temperature alerts or warnings. This checklist is not a list of all required actions. Each local government may have changes and/or additions to make to adapt it to their jurisdiction. Again, the checklist is intended to be flexible to fit unique community needs.

Phases for an extreme temperature response are listed below:

- Phase I - Seasonal Readiness
- Phase II - Heat or Cold/Freeze Alert
- Phase III - Heat or Cold/Freeze Warning

Local Guidance for Phase I - Seasonal Readiness

Phase I – Seasonal Readiness Local Activity	Responsible Department/ Agency	Applied (✓)
Planning • Establishes a working group consisting of agencies, private, volunteer and service organizations, food banks, faith-based organizations, cultural groups, immigrant groups, and service organizations to identify older adults, individuals with disabilities, and anyone with access or functional needs and develop a whole community strategy for		

Phase I – Seasonal Readiness Local Activity	Responsible Department/ Agency	Applied (✓)
accessible notification and emergency actions, such as establishing cooling or warming centers and transportation. • Determines local activation levels in an extreme temperature warning plan based on the phases in this guidance and local weather conditions. • Create programs for outreach and support of older adults, individuals with disabilities, and anyone with access or functional needs (phone trees, in- home check-ups, video visits, etc.) utilizing volunteer and service organizations.		
Awareness • Identifies volunteer and service organizations, private sector, food banks, faith-based organizations, cultural groups, immigrant groups, medical and care facilities, schools' representatives, law enforcement, fire personnel, and other representatives to determine the location older adults, individuals with disabilities, and anyone with access or functional needs to determine their needs and ensure whole community support. • Coordinates with state programs serving individuals with AFN to ensure needs are addressed and identify any anticipated needs or problems. • Develops culturally and linguistically appropriate public safety materials that include posters, flyers, and public media announcements. Announcements should include information for individuals with AFN regarding how to obtain paratransit transportation to be used in emergency/disaster situations.		

Phase I – Seasonal Readiness Local Activity	Responsible Department/ Agency	Applied (✓)
• Establishes processes to rapidly disseminate extreme heat emergency guidance older adults, individuals with disabilities, and anyone with access or functional needs through service groups, food banks, Community Emergency Response Team (CERT), faith-based organizations, cultural groups, immigrant groups, service organizations, care providers, medical and health facilities, workplaces, schools, public facilities, and private industries. Ensures accessible messaging using captioning, sign language interpretation, and other accommodations as necessary by all broadcasters for all emergency messages. • Considers utilizing current grant funding (e.g., Emergency Management Program Grant (EMPG)), to develop 211 capability and/or telephonic notification systems with (TTY/TDD) capabilities to contact persons with disabilities, including text paging for people with hearing impairments and audible messaging for individuals with sight impairments. • Conducts extreme temperature emergency awareness fairs and exercises extreme heat emergency plans. • Notices volunteers and service organizations, private sector, faith-based organizations, medical and care facilities, schools' representatives, public officials, law enforcement, and fire personnel are informed to be prepared to contact older adults, individuals with disabilities, and anyone with access or functional needs.		

Phase I – Seasonal Readiness Local Activity	Responsible Department/ Agency	Applied (✓)
• Develops any additional public safety materials (in various accessible formats) that include posters, flyers, and public/social media announcements. • Disseminates guidance on extreme temperature warning to older adults, individuals with disabilities, and anyone with access or functional needs • in a timely manner through the local emergency alert systems, service groups, CERT, CV, disabilities organizations, care providers, medical and health facilities, workplaces, schools, public facilities, and private industries. Ensures compliance with program accessibility for persons with sight impairments via audible messages and persons with hearing impairments via captioning or sign language interpretation by all broadcasters for all emergency messages.		
Cooling or Warming Centers • Ensures that the facilities identified for cooling/warming centers will be available. • Confirms the points of contact for cooling/warming center operations. • Determines if special considerations for cooling/warming procedures are needed during a pandemic event. • Identifies the services provided at the cooling/warming facilities, taking into consideration accommodations for individuals with disabilities, service animals, domestic pets, and possible 24-hour operations.		

Phase I – Seasonal Readiness Local Activity	Responsible Department/ Agency	Applied (✓)
• Coordinates with the local power utility to identify and develop procedures for the operations of cooling/warming centers that could be exempt from rotating blackouts, if necessary.		
Transportation • Develops a transportation working group consisting of public, private, volunteer, and service organizations to identify and develop transportation procedures to ensure older adults, individuals with disabilities, and anyone with access or functional needs are provided accessible transportation to cooling/warming centers. • Identifies ways for individuals with AFN to notify appropriate authorities when accessible transportation to cooling/warming centers is needed. • Notifies private, volunteer, and service organizations involved in the transportation component and procedures to ensure availability of accessible transportation for older adults, individuals with disabilities, and anyone with access or functional needs to cooling/warming centers. • Ensures that coordination procedures, including memoranda of understanding, are in place to ensure accessible transportation is available for those in need of being transported to cooling/warming centers.		
Other • Identifies actions during an extreme temperature warning that will require emergency regulations or ordinances.		

Local Guidance for Phase II - Heat or Cold/Freeze Alert

Phase II - Heat or Cold/Freeze Alert Local Activity	Responsible Department /Agency	Applied (✓)
• Sends extreme temperature warnings related notifications to CSWC.		
• Distributes information specific to the extreme temperature warnings to local jurisdictions.		
• Cities and counties stand-by or begin activating pre-identified cooling/warming centers and works with volunteer groups to identify additional cooling centers that may be needed, identify American Disabilities Act (ADA) compliant centers so that persons with AFN could be taken to those facilities, and coordinate planning with local transportation providers.		
• Activates local extreme temperature response plans.		
• Disseminates extreme temperature protective measure guidance to all media sources.		
• Activates telephone extreme temperature hotlines.		
• Alerts appropriate neighborhood volunteer groups, volunteer and service groups, CERT, disability organizations, social services departments/agencies, medical facilities, and care homes.		
• Notifies paratransit or other local transportation of the potential need to transport individuals to cooling/warming centers.		
• Coordinates and briefs all emergency managers on actions to be undertaken and responsible departments/agencies.		
• Coordinates with local utilities to assess power restrictions or limitations.		

Phase II - Heat or Cold/Freeze Alert Local Activity	Responsible Department /Agency	Applied (✓)
• Plans transportation services and ways for individuals to request the transportation if utilities fail.		
• Activates transportation resources, including paratransit and private accessible transit services to assist those without transportation, including service animals, to and from cooling/warming centers.		
• Requests mutual aid as needed through SEMS if weather forecasts indicate extreme temperatures may be imminent.		
• Activates EOC if necessary.		
• Establishes regular public official briefings to include weather updates and actions taken and planned.		
• Schedules regular reporting and monitoring procedures with cooling/warming centers, volunteer organizations, utilities, public safety, and medical facilities.		
• Determines the need to proclaim a local emergency (or public health emergency) based on current or projected conditions.		
• Considers reductions in energy usage in local public buildings and reduced hours of operations that would not impact the cooling/warming center operations.		
• Activates hot line for public information.		
• Implements a method to track extreme temperature related deaths and medical emergencies.		
• Ensures all employees review and update their home emergency plans.		

Local Guidance for Phase III - Heat or Cold/Freeze Warning

Phase III - Heat or Cold/Freeze Warning Local Activity	Responsible Department/ Agency	Applied (✓)
• Activates EOC, as needed.		
• Monitors and determines need for more cooling/warming centers and resources.		
• Establishes regular media releases.		
• Tracks extreme temperature related fatalities and medical emergencies. Report extreme temperature related deaths to Cal OES, if requested.		
• Prioritizes public offices that should remain open and close others to conserve energy.		
• Issues targeted extreme temperature warnings to older adults, individuals with disabilities, and anyone with access or functional needs.		
• Monitors jurisdictional cooling/warming center facilities providing regular updates on numbers of persons at each, support issues including AFN, and power availability.		
• Coordinates activities with OA and neighboring jurisdictions. The OAs coordinate with Cal OES Regions providing information updates, resource assessments, and mutual aid requests.		
• Determines if special considerations for cooling/warming procedures are needed during a pandemic event. See Appendix J: Infectious Disease and Cooling/Warming Centers.		
• Proclaims and ratifies emergency (local and/or public health) and renews resolution as appropriate.		
• Identifies any regulatory or ordinance issues that may need to be suspended.		

Phase III - Heat or Cold/Freeze Warning Local Activity	Responsible Department/ Agency	Applied (✓)
• Establishes regular briefings with the National Weather Service.		
• Ensures employees have updated extreme temperature related materials and methods for checking on family members.		
• Ensures impacts to pets and animals due to extreme temperatures are addressed at cooling/warming centers.		
• Requests state activation of state-owned cooling/warming centers in the vicinity as needed.		
• Surveys available emergency resources and facilities to determine replenishment needs.		
• Notifies ambulance providers and hospitals to expect and prepare for surge in extreme temperature related illnesses.		
• Submits regular situation reports to the Cal OES Region.		
• Tracks extreme temperature related fatalities and medical emergencies. Report extreme temperature related fatalities to Cal OES, if requested.		
• Gathers data on damages, if appropriate: o Submits Initial Damage Estimates (IDE) o Prepares to participate in Preliminary Damage Assessments (PDA) o Establishes Local Assistance Centers (LACs)		

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Appendix C: National Weather Service Products

National Oceanic and Atmospheric Administration/National Weather Service Information

National Oceanic and Atmospheric Administration/NWS issues extreme heat or cold/freeze products using the outlook/watch/warning concept. These products are explained as follows:

- **Partner Emails** are issued for any potential significant weather event in the next seven days. Not an official NWS product, but an email heads up notification with very wide distribution to all emergency managers and the California State Warning Center.
- **Watches** are usually issued 36-48 hours before expected onset of the event.
- **Warnings** indicate a high degree of confidence that the event will occur as described and they usually are issued within 24 hours of the event.

Warnings may be issued even if neither an outlook nor watch was issued in advance. Similarly, outlooks and watches may have been issued but conditions then change enough that a warning is not warranted.

National Weather Service HeatRisk

Heat affects everyone differently. To prepare for upcoming heat events, the NWS is producing experimental forecasts which provide daily guidance on potential heat risks, out to seven days. This risk is assessed by comparing the official NWS temperature forecast to local thresholds which change through the year based on climatology. The name of this output is HeatRisk.

Note: Prior to the development of this plan, NWS determined that the Heat Index (HI), was no longer representative of California's climate. Individuals in all levels of government, the private sector, non-profit, and community-based organizations are now urged to utilize HeatRisk as the NWS product of choice.

NWS Experimental HeatRisk is portrayed in a numeric (0-4) and color (green/yellow/orange/red/magenta) scale, very similar to the Air Quality Index (AQI). This daily value indicates the level of heat risk concern for any location, along with identifying the groups who are most at risk. Essentially, the higher the value, the greater the potential heat risk. During this experimental phase, the NWS in California, Nevada, Utah, and Arizona are linking the heat product issuance to the HeatRisk output, rather than to the many varied single threshold approaches previously used. In simple terms, magenta and red HeatRisk would generally lead to excessive heat warnings and orange would lead to advisories, depending on location.

See **Figure 1** below for an example of the NWS HeatRisk product distributed by NWS in the partner emails. See **Table 1** on the next page for the HeatRisk table used to identify the risk used in the HeatRisk product.

For more information visit the *NWS Experimental HeatRisk: Identifying Potential Heat Risks in the Seven Day Forecast* website.

Figure 1: NWS HeatRisk Product Example

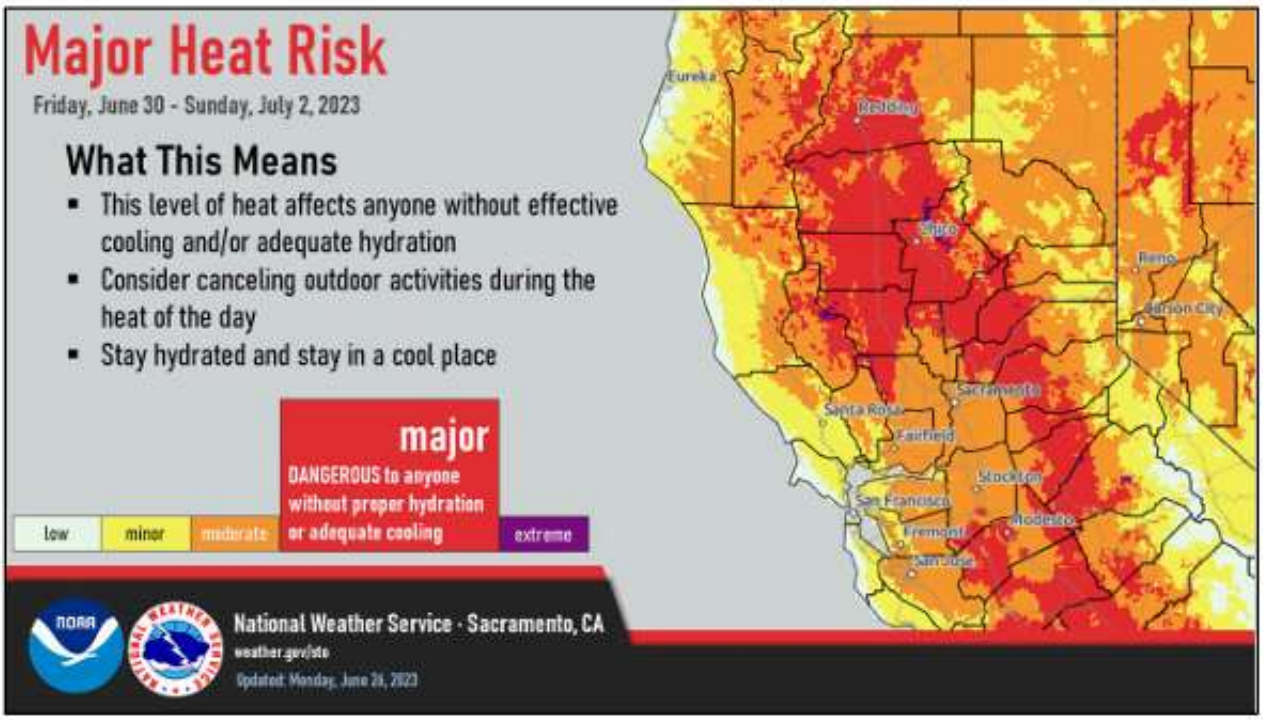


Table 1: NWS HeatRisk Table

Numerical Value	Meaning	Who/What is at Risk?	How Common is this Heat?	For those at risk, what actions can be taken?
0 (Green)	Level of heat poses **little to no risk**	No elevated risk	Very Common	No preventative actions necessary
1 (Yellow)	Heat of this type is **tolerated by most**; however, there is a **minor risk for sensitive groups** to experience negative heat-related health effects	**Primarily those who are extremely sensitive to heat**, especially when outdoors without effective cooling and/or adequate hydration	Very Common	Increase hydration Reduce time spent outdoors or stay in the shade when the sun is strongest Open windows at night and use fans to bring cooler air inside
2 (Orange)	Heat of this type is tolerated by many; however, there is a **moderate risk for members of heat sensitive groups** to experience negative heat-related health effects **Some risk for the general population who are exposed to the sun for longer periods of time** For those without air conditioning, **living spaces can become uncomfortable during the afternoon and**	**Primarily heat sensitive or vulnerable groups**, especially those without effective cooling or hydration. Those not acclimated to this level of heat (e.g., visitors) Otherwise healthy individuals exposed to longer duration heat, without effective cooling or hydration.	Fairly common most locations Very common in southern regions of country	Reduce time in the sun during the warmest part of the day Stay hydrated Stay in a cool place during the heat of the day Move outdoor activities to cooler times of the day For those without air conditioning, use fans to

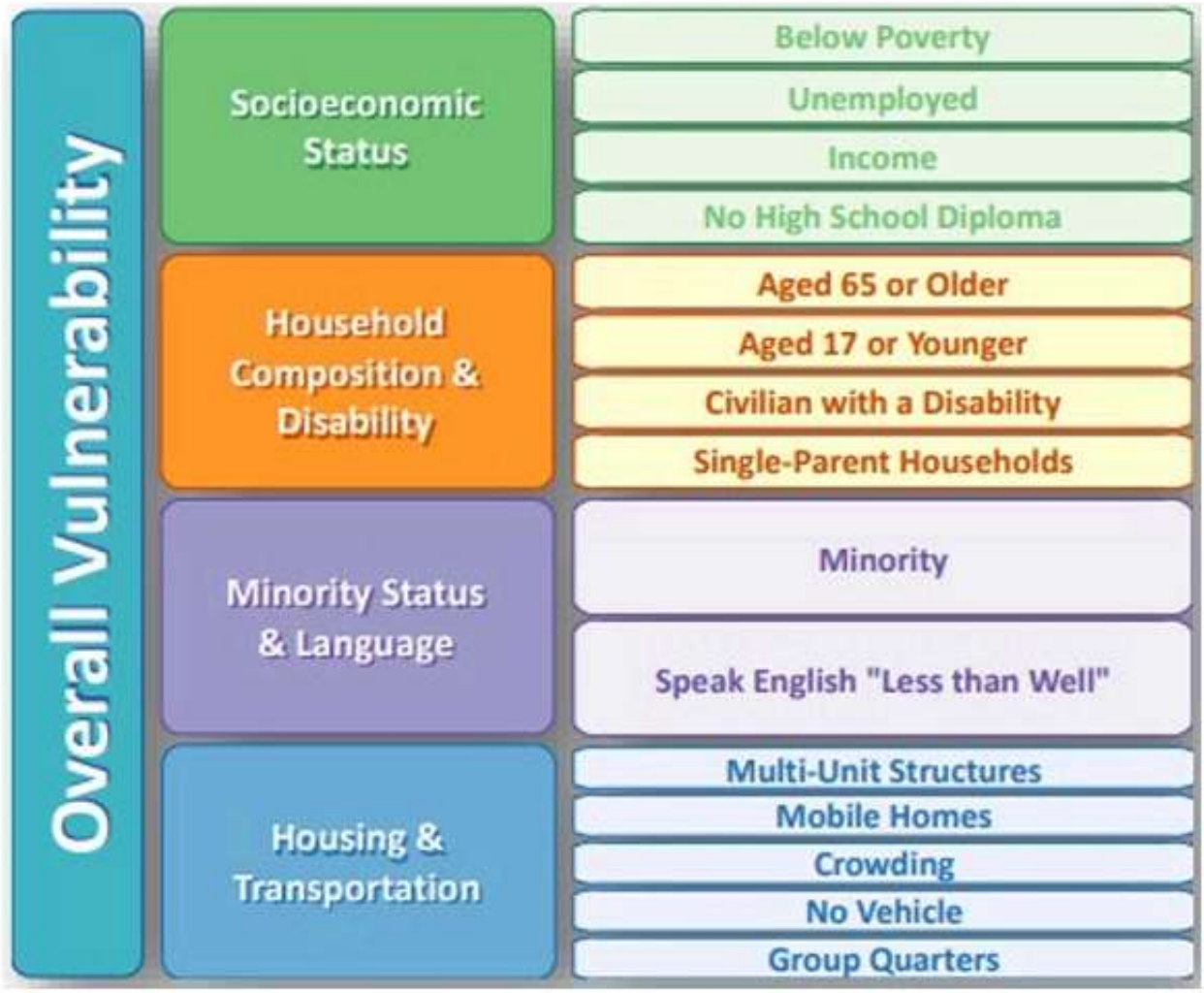
Numerical Value	Meaning	Who/What is at Risk?	How Common is this Heat?	For those at risk, what actions can be taken?
	evening, but fans and open windows at night will help	such as in the sun at an outdoor venue Some transportation and utilities sectors Some health systems will see increased demand, with increases in emergency room visits		keep air moving and open windows at night
3 (Red)	Heat of this type is a **major risk to those who are 1) exposed to the sun and active or 2) are in a heat sensitive group** **Dangerous to anyone without proper hydration or adequate cooling** **For those without air conditioning, living spaces can become deadly during the afternoon and evening. Fans and open windows will not be as effective** **Poor air quality** is possible	**Much of the population, especially anyone without effective cooling or hydration** Those exposed to the heat/sun at outdoor venues Most transportation and utilities sectors Health systems likely to see increased demand with significant increases in emergency room visits	Uncommon in most locations Fairly common in southern regions of the country	Consider canceling outdoor activities during the heat of the day, otherwise move activities to the coolest part of the day Stay hydrated Stay in a cool place especially during the heat of the day and evening If you have access to air conditioning, use it, or find a location that does. Even a few hours in a cool location can lower

Numerical Value	Meaning	Who/What is at Risk?	How Common is this Heat?	For those at risk, what actions can be taken?
	Power interruptions may occur as electrical demands increase			risk. Fans may not be adequate.
4 (Magenta)	**This is a rare level of heat leading to an Extreme Risk for the entire population** **Very dangerous to anyone without proper hydration or adequate cooling** **This is a multi-day excessive heat event.** Prolonged heat is dangerous to anyone not prepared **Poor air quality** is likely **Power outages are increasingly likely** as electrical demands may reach critical levels	**Entire population exposed to the heat is at risk** For people without effective cooling, especially heat sensitive groups, **this level of heat can be deadly** Most transportation and utilities sectors Health systems highly likely to see increased demand with significant increases in emergency room visits	Rare most locations Occurs up to a few times a year in southern regions of country, especially the Desert Southwest	Strongly consider canceling outdoor activities Stay hydrated Stay in a cool place, including overnight If you have access to air conditioning, use it, or find a location that does. Even a few hours in a cool location can lower risk. Fans will not be adequate Check on your neighbors

Social Vulnerability Index (SVI)

The NWS Experimental HeatRisk utilizes the Center for Disease Control (CDC) Social Vulnerability Index (SVI) in combination with the weather forecast to determine the level of HeatRisk in an affected area. See **Figure 2** for Overall Social Vulnerability by Category.

Figure 2: Overall Social Vulnerability by Category



The Agency for Toxic Substances and Disease Registry (ATSDR) and the Geospatial Research, Analysis, and Services Program (GRASP) created this database to help emergency response planners and public health officials identify and map communities that will most likely need support before, during, and after a hazardous event. To learn more, visit ATSDR's CDC Social Vulnerability Index (SVI) webpage.

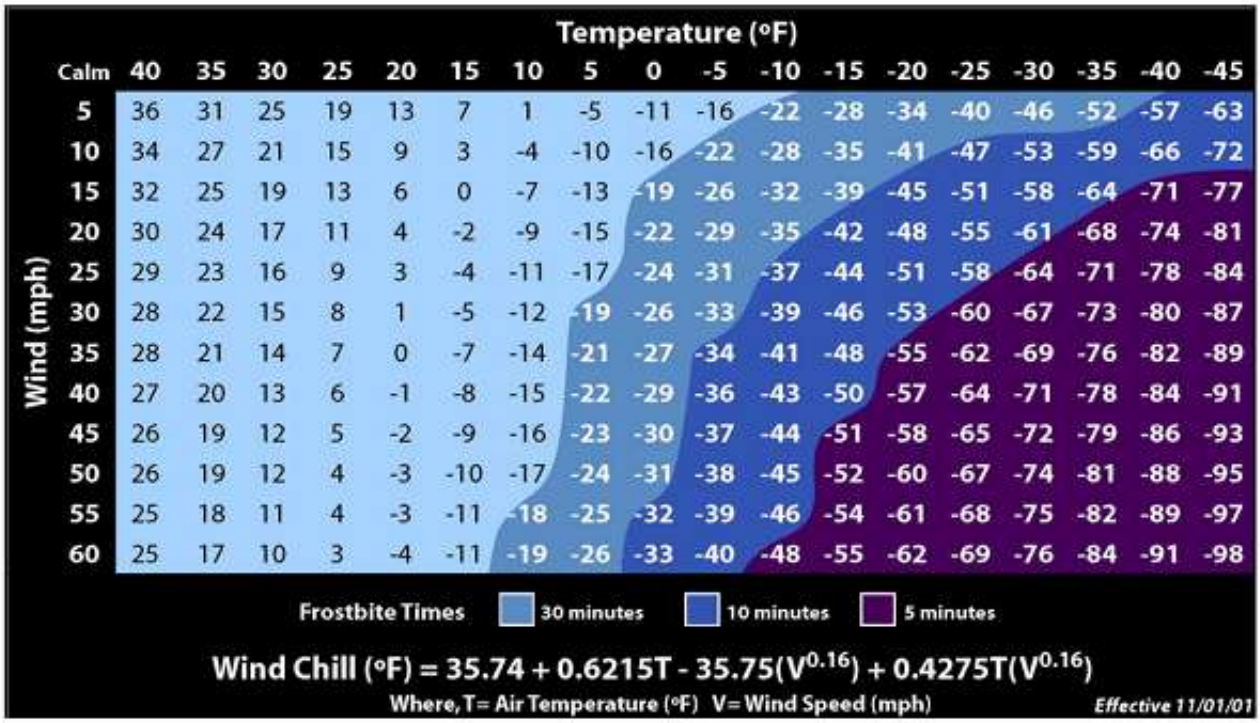
National Weather Service Wind Chill Temperature

The NWS Wind Chill Temperature (WCT) Index uses advances in science, technology, and computer modeling to provide an accurate, understandable, and useful formula for calculating the dangers from winter winds and freezing temperatures. The WCT index:

- Calculates wind speed at an average height of five feet, the typical height of an adult human face, based on readings from the national standard height of 33 feet, which is the typical height of an anemometer.
- Is based on a human face model.
- Incorporates heat transfer theory based on heat loss from the body to its surroundings, during cold and breezy/windy days.
- Lowers the calm wind threshold to three mph.
- Uses a consistent standard for skin tissue resistance.
- Assumes no impact from the sun (i.e., clear night sky).

To determine the wind chill temperature, find the value closest to your outside air temperature. Find the value that most closely represents your present wind speed. Your wind chill temperature is the value where lines drawn from the air temperature and wind cross. See **Figure 3**, the NWS Wind Chill Chart.

Figure 3: National Weather Service Wind Chill Chart



For more information and to use the Wind Chill Calculator, visit the National Weather Service's Wind Chill website. For more information on cold weather products, see the State Concept of Operations, Extreme Cold/Freeze section.

Notification

The CSWC is used as a situational awareness pass through for information received daily by the NWS. NWS heat or cold/freeze information received by the CSWS is then:

- Forwarded to the OAs via the California Law Enforcement Telecommunications System (CLETS).
- Forwarded to third party distribution systems, the media, and subscribing emergency managers through the Emergency Digital Information System (EDIS).

Items which meet thresholds of immediate action are also verbally transmitted to OAs, Cal OES duty officers, and other essential personnel.

Appendix D: Resources and Supplies for Preparedness and Response

The following is a partial list of resources supplies that can assist in preparing for and responding to extreme temperatures:

Extreme Temperature Warning Resources and Supplies

- Public education pamphlets - preventive measures, symptoms, etc.
- Prepared press releases listing available resources and contact numbers.
- State facilities, including fairgrounds with temperature-controlled venues to act as warming centers.
- Portable generators to loan to nursing homes and senior housing complexes.
- A developed statewide list of companies that will donate goods.
- Ready to eat meals or commercial equivalents.
- Special dietary products for babies, older adults, and other special needs groups.
- Coupons that can be used at pre-identified stores to obtain ice, water, etc.
- Lists of volunteers to staff cooling/warming centers and check on special needs' populations.
- Lists of county cooling/warming centers.
- Lists of potential air conditioned or heated dormitory rooms available to house individuals and those with AFN.
- Lists of available vehicles and volunteers/personnel to transport heat or cold/freeze-impacted individuals with AFN.
- Pre-staged portable tables and chairs to accommodate clientele.
- Lists of facilities that can accommodate pets.
- Animal cages to house pets.
- Stockpiled animal food and water.
- Disposable dishes to serve animals.

- Portable regular and AFN showers.
- Regular, bariatric, and AFN cots.
- Available National Guard or other state resources for housing and care.

Heat Resources and Supplies

- Portable air conditioners and fans to loan where needed.
- Bottled water and assorted cold drinks.
- Identified sources for obtaining ice to distribute at cooling centers.
- Dry ice to assist community members with power disruptions.
- Bottled Pedialyte and adult equivalent.
- Cooling tents for setting up in state/county parks.

Cold/Freeze Resources and Supplies

- Portable heaters to loan where needed.
- Bottled water and other warm beverages.
- Identified and prepared sources for obtaining blankets to distribute at warming centers.
- Bottled/boxed fruit juices.
- Blankets, care kits, and other comfort items.

Appendix E: State Dissemination of Public Information

Increased readiness should begin when extreme temperatures are forecast. Cal OES coordinates statewide preparedness activities, including dissemination of preparedness information through media and in-person events with an emphasis on accessible messaging to older adults, individuals with disabilities, and anyone with access or functional needs. These events will include multiple levels of government, private entities, and NGOs, such as community, faith based, volunteer, and service organizations. Discussion groups at these events will assist in fine-tuning materials, developing delivery methods, reviewing and updating plans and procedures, and developing community-based partnerships. As extreme temperature weather increases consider a variety of strategies and methods for dissemination.

Seasonal Approach

Public information functions will address extreme temperatures using a seasonal approach:

- A heat awareness campaign during the month of May, or earlier in the event of forecasted heat events.
- An extreme cold/freeze conditions awareness campaign during the months of November to February, or earlier in the event of forecasted extreme cold/freeze conditions.

Public information messages should reinforce communications received from key state departments/agencies. Messages should be culturally appropriate and accessible to individuals with AFN considerations (e.g., vision and hearing impairment), and should be about:

- Heat or cold/freeze safety awareness for all populations, including workers.
- Heat or cold/freeze safety health tips.
- When to use 911 and hospital emergency departments.
- Checking on family, friends, and neighbors.
- Availability of resources for assistance and respite.

Outreach by State and Local Departments/Agencies

Public information should include the use of mass media and community education strategies, such as:

- Sending notification and prevention tips through schools, businesses, and associations.
- Posting public information tips at hospitals, medical offices, grocery stores, and community centers.
- Additional outreach to parks and recreation, sports and outdoor activity venues, senior and day care centers, and organizations serving non-English speakers.

All materials and messages should be coordinated with state departments/ agencies with public health and safety responsibilities.

Free Media

- Public Service Announcements (PSAs).
- Media Advisories.
- Press Releases.
- Social Media Outlets (Facebook, Twitter, etc.).
- Opinion page editorials and guest columns.
- Guest spots on news programs, public affairs appearances, talk shows, etc.
- Community events/expos as feasible.
- Web sites with resources (Cal OES and other state departments/agencies,).
- Press conferences and news briefings.

Partnerships

- Partner with private sector businesses on promotional campaigns.
- Partner with AFN and older adult service organizations on heat safety awareness outreach materials.

- Partner with utility companies on extreme temperature safety awareness outreach materials.
- Partner with local government on regional promotions.

Speakers Bureau

Establishes a multi-department/agency speaker's bureau with subject matter experts on topics, such as issues related to older adults, individuals with disabilities, and anyone with access or functional needs.

Joint Information Center Activation

As extreme temperature warnings unfold, Cal OES OCCPA determines when to activate a JIC and bring together representatives from all responsible departments/agencies to coordinate crisis communications and public information (e.g., Cal OES, DHCS, CDSS, CDFA, and other key state and local departments/agencies). Previously developed extreme temperature warnings and pre-scripted materials should be distributed to local agencies prior to any excessive temperature event.

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Appendix F: Health Information and High-Risk Populations

Symptoms of Heat Exposure

Heat Exhaustion occurs when the body is dehydrated resulting in an imbalance of electrolytes.

- Symptoms - Headache, nausea, dizziness, cool and clammy skin, pale face, cramps, weakness, and profuse perspiration.
- First Aid - Move to a cooler spot, drink water with a small amount of salt added (one teaspoon per quart).
- Without Intervention - Can lead to collapse and heatstroke.

Heatstroke occurs when the body cannot perspire and overheats.

- Symptoms - Headache, nausea, face flushed, hot and dry skin, no perspiration, body temperature over 101°F, chills, and rapid pulse.
- First Aid – Move to a cooler spot as soon as possible, cool person immediately, wrap in a cool, wet sheet, and get medical assistance.
- Without Intervention - Can lead to confusion, coma, and death.

Symptoms of Cold/Freeze Exposure

Frostbite is a reaction to cold that can cause permanent harm.

- Symptoms - A white or grayish-yellow skin area, skin that feels unusually firm or waxy, and numbness.
- First Aid – Move to a warm spot as soon as possible.
  - Unless necessary, do not walk on feet or toes that show signs of frostbite - this increases the damage.
  - Do not rub the frostbitten area with snow or massage it at all - this can cause more damage.
  - Put the areas affected by frostbite in warm - not hot - water (the temperature should be comfortable to the touch for unaffected parts of the body).

  - If warm water is not available, warm the affected area using body heat. For example, you can use the heat of an armpit to warm frostbitten fingers.
  - Do not use a heating pad, heat lamp, or the heat of a stove, fireplace, or radiator for warming. Affected areas are numb and can easily burn.
- Without intervention, frostbite may permanently damage the body part and in severe cases, can lead to amputation (removing the affected body part).

Hypothermia occurs when the body's temperature drops below 95°F.

- Symptoms - Confusion, dizziness, exhaustion, and shivering are signs of hypothermia. If you experience any of these symptoms, seek medical attention immediately.
- First Aid - Centers for Disease Control and Prevention (CDC) guidance on warming procedures:
  - Get the victim into a warm room or shelter. If the victim has on any wet clothing, remove it.
  - Warm the center of the body first - chest, neck, head, and groin - using an electric blanket, if available; or use skin-to-skin contact under loose, dry layers of blankets, clothing, towels, or sheets.
  - Warm beverages can help increase the body temperature, but do not give alcoholic beverages. Do not try to give beverages to an unconscious person.
  - After body temperature has increased, keep the person dry and wrapped in a warm blanket, including the head and neck.
  - Get medical attention as soon as possible.

High Risk Populations and Individuals with Access or Functional Needs

Situational and physical characteristics help to identify high risk populations that may not comfortably or safely access and use disaster resources. Government Code Section 8593.3 was added to the law in 2016 and broadly defines those with access and functional needs as:

"The access and functional needs population consists of individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant."

For more information on emergency preparedness and response best practices of the AFN community, visit the Cal OES Office of Access and Functional Needs.

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Appendix G: Animal Vulnerabilities in Excessive Temperatures

Animals in the Extreme Heat

Dogs and cats are less efficient at cooling than humans. They are in danger of heat stroke at 110°F. Their sweat glands are located on the nose and footpads, which are inadequate for cooling on hot days. Panting and drinking water help cooling, but if the air temperature is overheated, brain and organ damage can occur in 15 minutes. Risk factors to heat stress include body size, age (young and old), breed (short nosed breeds, such as bulldogs), obesity, and existing metabolic, cardiovascular, or respiratory disease.

Every year, People for the Ethical Treatment of Animals (PETA) receives reports of dogs, cats, and other animals who have died after being left in hot cars or outside during the summer months. **Table 2** shows the temperature change in a vehicle over time on a warm day:

Table 2: Temperature Changes in a Vehicle Overtime on a Warm Day

Outside Air Temperature	Minutes Inside Vehicle	Temperature in Vehicle
85° F	10 Min.	102° F
85° F	30 Min.	120° F
72° F	30 Min.	104° F
72° F	60 Min.	112° F

Prevention:

- Never leave pets in a car on warm days.
- Call animal control or police immediately if an animal is in distress in a car.
- Be alert for any sign of heat stress: heavy panting, glazed eyes, a rapid pulse, unsteadiness, staggering gait, vomiting, or deep red or purple tongue.
- Never leave pets tied up without shade, air circulation, and fresh water.
- Offer a cool place to rest when temperatures are uncomfortable.

- If you are going to take advantage of a local cooling center and feel the need to bring your pet, always call ahead to find out if they are able accept pets, and what preparations are necessary (e.g., leash for dog, pet carrier for cats, etc.).

Treatment:

- Overheated pets must be cooled immediately.
- Move pet to shade.
- Apply cool water all over body.
- Apply ice packs to neck and chest area.
- Allow licking ice and small amount of water (large amount will cause vomiting).
- Take to veterinarian immediately for evaluation.

Animals in Extreme Cold/Freeze

When the temperature outside drops below freezing (32°F), pets should be provided adequate protection from the elements. When the outside temperature and/or wind-chill drops below zero, then pets should have access to shelter with heat. Normal body temperature for a dog or cat is around 101°F. Animals experience hypothermia when their body temperature falls dramatically below their normal body temperature, which can lower metabolic rate and affect organ functions.

Signs of Hypothermia in Pets:

- Shivering.
- Respiratory depression.
- Lethargy.
- Weakness.
- The pet's gums turn pale or bluish.
- The pet experiences lack of coordination.
- Paralysis.
- Loss of conscious.
- Eventual cardiac arrest.

Treatment:

- Remove the pet from the elements immediately.
- Wrap the animal in a warm, dry blanket.
- Give the pet warm liquids or food.
- Dry any excess moisture from the animal's fur.
- Get the effected pet to a veterinary clinic immediately.

Livestock and Poultry in the Heat

Extreme heat can be hazardous to livestock, horses, and poultry. Reduced production, heat-related illnesses, even death can occur. During extreme heat, individuals who own livestock and poultry should observe the following:

- Producers should assure that all livestock and poultry are provided adequate and accessible drinking water, shade, and fans and water-cooling, where feasible.
- Many producers have back-up generators for their facilities, which should be inspected to ensure operational condition in the event power disruptions. Emergency power should also be available for fans and well pumps. Misters, soakers, and fans should be checked to ensure they are operational. Shade structures (especially shade cloths) should be in good repair.
- During an excessive heat warning, dairy producers can use a variety of temporary cow-cooling methods. Fire hoses can be hooked up to water trucks and used to soak the cattle. Strings of cows can be cooled in sprinkler pens if they are not in constant use for milking. Temporary soaking lines can be devised using flexible landscaping PVC hose and high-volume emitters positioned over the cattle. Industrial fans have been rented to augment these water-cooling methods. Temporary shade structures have been erected. In general, working cattle should be avoided except in the early morning.

Livestock and Poultry in the Cold

Livestock and poultry are very resilient to winter temperatures. However, when severe winter hits suddenly, it can be a stress factor. During extreme cold, individuals who own livestock and poultry should observe the following:

- Livestock should be provided with windbreak and roof shelter, and monitored for signs of discomfort (extensive shivering, weakness, lethargy, etc.).
- It is very important that livestock be provided extra hay/forage/feed as the calories for normal body heat maintenance may double in extreme cold.
- It is critical that animals have access to drinking water. Usual water sources may freeze solid in low temperatures and dehydration can become a life-threatening factor. Many animals, especially the young, may not know how or cannot break several inches of ice to reach water. In general, animals tend to drink less in extreme cold, risking dehydration. Research with horses shows they will drink more water if it is warmed when weather is cold.
- Adding a warm sloppy bran mash, sloppy moistened beet pulp, or soaking pelleted feed in warm water is a good way to add water to a horse's diet and provide some comfort food in the cold weather.
- Special attention should be paid to very young and old animals. They may be less able to tolerate temperature extremes and have weaker immune systems.

Livestock and Poultry Mass Fatality

During an extreme temperature warning, if producers are experiencing difficulties or delays in having dead animals picked up by rendering companies, they should immediately contact their Agricultural Commissioner, their local office of emergency services, or office of environmental health to inform them of the situation. Local officials can assist with alternate methods of disposal, including evaluating the need for a proclamation of local emergency. Producers are encouraged to review the Emergency Animal Disposal Guidance on Cal EPA's website.

Appendix H: The Electrical Grid and the California ISO

The California Independent System Operator (ISO) is tasked with managing about 80 percent of the California electrical power grid, except in areas serviced by municipal utilities.

California Independent System Operator - The ISO is tasked with managing the power transmission grid that supplies most of California except in areas serviced by municipal utilities. There are times when supply margins are tight, especially during the summer when air conditioning drives up electricity demand. When that happens, the ISO initiates communications with the public to take actions to protect the grid reliability. Loss of generation or transmission equipment, peak electricity demand forecasts, and persistent heatwaves may trigger an emergency notification from the ISO.

Emergency Notifications – The ISO uses a series of emergency notifications to alert the public based on system conditions. Click to see the CA ISO Emergency Notifications Fact Sheet. The emergency notifications are:

- Transmission Emergency - Declared for any event threatening or limiting transmission grid capability, including line or transformer overloads or loss.
- Energy Emergency Alert Watch - Analysis shows all available resources are committed or forecasted to be in use, and energy deficiencies are expected. Market participants are encouraged to offer supplemental energy. This notice can be issued the day before the projected shortfall or if a sudden event occurs.
- Energy Emergency Alert 1 - Real-time analysis shows all resources are in use or committed for use, and energy deficiencies are expected. Market participants are encouraged to offer supplemental energy and ancillary service bids. Consumers are encouraged to conserve energy.
- Energy Emergency Alert 2 - ISO requests emergency energy from all resources and has activated its emergency demand response program. Consumers are urged to conserve energy to help preserve grid reliability.
- Energy Emergency Alert 3 - ISO is unable to meet minimum Contingency Reserve requirements and controlled power curtailments are imminent or in progress according to each utility's emergency plan. Maximum conservation by consumers requested.

Utilities - Utilities generally attempt to provide outage information through automated notifications such as phone calls, text messages, emails, social media, mass media, and, if warranted, going door to door to inform customers and the public of electric power disruptions. For non-customers or account holders, some utilities have established a separate registry to receive notifications of potential power shutoffs.

Ongoing emergency coordination between city and county emergency managers and utility providers could enhance advance notification of electric disruptions and restoration coordination. In case of a Public Safety Power Shutoff (PSPS) program disruption, the utilities will also notify local public safety officials and the CSWC.

Electric Power Load Shedding

When the power system is under extreme stress due to heavy demand and/or failure of critical components, it is sometimes necessary to intentionally interrupt the service to selected customers to prevent the entire system from collapsing. In such cases, customer service (or load) is cut, sometimes with little or no warning. One form of load shedding called a rotating blackout involves cutting service to selected customers for a predetermined period (usually not more than two hours). As power is restored to one block of customers, power to another block of customers is interrupted to reduce the overall load on the system.

California's investor-owned utilities may shut off electric power, referred to as de-energization or Public Safety Power Shutoffs (PSPS), as a measure of last resort to protect public safety during high-fire-threat events. Unlike rotating blackouts, areas being de-energized for a PSPS event should receive notifications prior to the de-energization as well as notifications when the restoration process begins and is concluded. Undefined cooling or warming centers are not covered by this rule and are not exempt from rotating power outages; however, Cal OES may request an exception from the utilities through the California Utilities Emergency Association (CUEA). There are no commonly defined criteria for cooling or warming centers. For more information on power disruptions, see the Cal OES Electric Power Disruption Toolkit for Local Government.

Appendix I: Cooling or Warming Center Checklist

The following is a list of important and suggested criteria considerations for setting up a cooling or warming center:

Important Criteria	Applied (✓)
Air conditioning, heating, or equivalent (temperature maintained at maximum of 79°F or minimum of 68°F)	
Accessible to individuals with access or functional needs	
Ample seating appropriate to the jurisdiction	
Public restrooms accessible to individuals with AFN	
Access to potable water	
Access to 911 services	
Publicly advertised	
Parking stalls reserved for disabled access or placard parking	
Close proximity to public transit	
Suggested Criteria	**Applied (✓)**
Back-up generators	
Facility security	
Child friendly, with materials for children to play	
Communications, phone (including TDD/TTY), internet access, and language interpreters (e.g., telephonic translation services, video remote interpreting, etc.)	
Charging stations for mobile devices, assistive technology, power chairs, medical equipment, etc.	
Medical personnel, such as nurses and/or aides and first aid equipment and supplies.	
Mobility aids (e.g., wheelchairs, chairs with arms, walkers, etc.)	
24-hour, 7 days a week operation with outdoor lighting	
Large capacity	
Personnel assistance services for individuals with AFN (e.g., readers)	
Available televisions, books, radios, and games	
On demand transportation for those lacking their own, including wheelchair accessible services provided at no cost	

Important Criteria	Applied (✓)
Follow-up procedures for those in need of additional services (health care, social services, mental/behavioral health, etc.)	
Area for pets	
Veterinary resources available if needed	

Appendix J: Infectious Disease and Cooling/Warming Centers

Extreme temperatures are a major public health concern in California. Cooling/warming centers are used by many communities to protect health during extreme temperatures. However, the use of cooling/warming centers can potentially provide a route for the transmission of infectious diseases among both visitors and staff. Additionally, groups of individuals at higher risk for illness, such as older adults or those with underlying medical conditions, may have greater need to congregate at cooling/warming centers. This document provides guidance to support a safe, clean environment for members of the public and workers at facilities operated as cooling/warming centers.

Utility Assistance

- Consider implementing or expanding programs that provide utility assistance, such as the low-income home energy assistance program to limit shut offs due to financial insecurity.
- A temporary ban on utility shut offs during extreme cold/heat waves would allow individuals to stay home and continue using home heater or air conditioning.

Staff and Volunteers

- Plan for staff and volunteer absences.
- All staff should be screened for temperature and symptoms at the beginning of their shift.
- Provide personal protective equipment.
- Develop flexible attendance and sick-leave policies.
- Identify critical job functions and positions, and plan for alternative coverage by cross-training center staff.
- Be prepared to contact emergency officials (call 911) in the case of severe illness requiring medical assistance.

Physical Distancing

- Implement screening and alternative sites for symptomatic and asymptomatic individuals.
- Visitors and staff should be encouraged to wear cloth face coverings while in the center. The center is encouraged to have a supply of face coverings to distribute to anyone who arrives without one. Face coverings must not be shared.
- Maintain physical distancing, ideally at least six feet between individuals or family units.
- Separate furniture and create spaces for individual family units.
- Consider larger facilities to provide adequate space for physical distancing.
- If possible, provide alternative sites for those showing symptoms of illness (e.g., fever, cough, shortness of breath). This may be separate rooms within the centers or a space that can be used to accommodate visitors with symptoms and separate them from others.
- As space shortages arise, consider emergency alternatives such as using parked air-conditioned buses, trailers, or tents.
- Communities may also partner with closed businesses, such as movie theaters or shopping malls, as alternative cooling sites.

Air Filtration

- Centers should be equipped with air exchange systems and be in buildings with tall ceilings when possible.
- Utilize the highest efficiency filters that are compatible with the cooling center's existing HVAC system and adopt clean-to-dirty directional airflows.
- Ceiling fans with upward airflow rotation combined with upper-air ultraviolet germicidal irradiation (UVGI) disinfection systems can be utilized.
- When conditions allow (low humidity), shaded outdoor spaces with cross-draft airflow augmented by evaporative coolers may provide a safer alternative.

Cleaning

- Follow the CDPH Effective Cleaning Strategies, and clean facilities if someone is sick.
- Continue routine cleaning and disinfection (every day if possible) with a focus on high touch surfaces, including those in common areas and bathrooms. All viruses can survive for several days on non-porous surfaces.

Communication

- Enhance communication about infectious disease onsite.
- Use health messages and materials developed by credible public health sources, such as your local and state public health departments or CDC.
- Share or post infectious disease posters and CDC Fact Sheets and keep your visitors informed about public health recommendations to prevent disease spread. Messaging may include:
  - Posting signs at entrances and in strategic places providing instruction on hand hygiene, respiratory hygiene, cough etiquette, and cloth face coverings.
  - Providing educational materials about infectious disease for non-English speakers, as needed.
  - Encouraging ill staff and volunteers to stay home (or be sent home if they develop symptoms while at the facility) to prevent transmitting the infection to others.
- Identify and address potential language, cultural, and disability barriers associated with communicating infectious disease information to workers, volunteers, and those visiting cooling/warming centers.

Prevention Supplies

- Provide infectious disease prevention supplies onsite at centers, if available.
- Have supplies on hand for staff, volunteers, and visitors, such as soap, alcohol-based hand sanitizers that contain at least 60% alcohol, tissues, trash liners, gloves, face shields, masks, and gowns.

- Visitors and staff should wear a cloth face covering, or if supplies are available, be given a clean disposable facemask, even if they are not showing any symptoms.
- Cloth face coverings should not be placed on young children under age two, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- Place posters that encourage hand hygiene to help stop the spread of viruses at the entrance to the facility, at sinks in restrooms, and in other areas where they are likely to be seen.
- If water bottles are distributed at the center, ensure visitors do not share bottles or glasses and other drinking accessories.

This annex utilizes information from the Center for Disease Controls COVID-19 and Cooling Centers guidance and the California Department of Public Health Guidance for Cooling Centers on COVID-19.

Appendix K: Authorities

Government Code Sections (within the Emergency Services Act, Chapter 7, Division 1, Title 2):

- Section 8630(a): A local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body.

The local health officer may proclaim a local emergency if he or she has been specifically designated to do so by ordinance adopted by the governing body of the jurisdiction.

- Section 8558(c): Local emergency means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California PUC.

It is possible to proclaim a local emergency for health-related reasons.

- Section 8625: The Governor is hereby empowered to proclaim a state of emergency in an area affected or likely to be affected thereby when:

  (a) The Governor finds that circumstances described in subdivision (b) of Section 8558 exist; and either

  (b) The Governor is requested to do so (1) in the case of a city by the mayor or chief executive, (2) in the case of a county by the chairman of the board of supervisors or the county administrative officer; or

  (c) The Governor finds that local authority is inadequate to cope with the emergency.

Government Code Section 8588.15:

Government Code Section 8588.15 requires the incorporation of the disability community into the California Standardized Emergency Management System (SEMS) via representatives on the SEMS specialist committees and technical group. It also addresses funding needs for expanded emergency alerting technology in order to ensure early alert and warning to all the disability community, especially the blind, persons with sensory or cognitive disabilities, and/or vision impaired population. Early emergency alert information in emergencies and/or disasters is critical to the disability community, for example, in the case of mandatory evacuations.

Health and Safety Code Section:

- Section 101040: Authority to take preventive measures during emergency. The local health officer may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any state of war emergency, state of emergency, or local emergency, as defined by Section 8558 of the Government Code, within his or her jurisdiction.

Preventive measure means abatement, correction, removal or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health.

The local health officer, upon consent of the county board of supervisors or a city governing body, may certify any public health hazard resulting from any disaster condition if certification is required for any federal or state disaster relief program.

- Section 101475: Gives a city public health officer authority to take preventive measures to protect public health.

Appendix L: Definitions

Access and Functional Needs – As defined by Gov Code, §8593.3, consists of individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant.

Acclimatization - The process of becoming accustomed to a new condition (e.g., temperature, weather, altitude, physical environments, geographical environments, etc.).

Activation - 1) Initial activation of an EOC may be accomplished by a designated official of the emergency response agency that implements SEMS as appropriate to accomplish the agency's role in response to the emergency. 2) An event in the sequence of events normally experienced during most emergencies.

Agency - A division of government with a specific function offering a particular kind of assistance. In the Incident Command System (ICS), agencies are defined either as jurisdictional (having statutory responsibility for incident management) or as assisting or cooperating (providing resources or other assistance). Governmental organizations are most often in charge of an incident, though in certain circumstances private sector organizations may be included. Additionally, NGO may be included to provide support.

Balancing Authority - A balancing authority is responsible for operating a transmission control area. It matches generation with load and maintains consistent electric frequency of the grid, even during extreme weather conditions or natural disasters.

Communication(s) - Process of transmitting information through verbal, visual, written, or symbolic means.

Contingency Plan - Refers to a subset of an existing emergency plan focused on addressing the particulars of a specific emergency scenario (e.g., earthquake, flood, etc.).

Cooling Center(s) - Facilities that are made available by public, private, and volunteer organizations as a heat relief station. There is no agreement that these facilities will be exempt from power outages.

Coordination Center - Term used to describe any facility used for the coordination of agency or jurisdictional resources in support of one or more incidents.

Department Operations Center (DOC) - An Emergency Operations Center (EOC), specific to a single department or agency where the focus is on internal agency incident management and response. They are often linked to and, in most cases, are physically represented in a combined agency EOC by authorized agent(s) for the department or agency.

Disaster(s) - A sudden calamitous emergency event bringing great damage, loss, or destruction.

Emergency - Any incident(s), whether natural or human-caused, that requires responsive action to protect life or property. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an emergency means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Emergency Operations Center (EOC) - The physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally take place. An EOC may be a temporary facility or may be in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOC may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., federal, state, regional, tribal, city, county), or some combination thereof.

Emergency Plan(s) - As defined in Government Code §8560 (a) Emergency Plans means those official and approved documents which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. These plans include such elements as continuity of government, the emergency services of governmental agencies, mobilization of resources, mutual aid, and public information.

Emergency Response Agency - Any organization responding to an emergency, or providing mutual aid support to such an organization, whether in the field, at the scene of an incident, or to an operations center.

Energy Emergency Alert Watch - Analysis shows all available resources are committed or forecasted to be in use, and energy deficiencies are expected. Market participants are encouraged to offer supplemental energy. This notice can be issued the day before the projected shortfall or if a sudden event occurs.

Energy Emergency Alert 1 - Real-time analysis shows all resources are in use or committed for use, and energy deficiencies are expected. Market participants are encouraged to offer supplemental energy and ancillary service bids. Consumers are encouraged to conserve energy.

Energy Emergency Alert 2 - ISO requests emergency energy from all resources and has activated its emergency demand response program. Consumers are urged to conserve energy to help preserve grid reliability.

Energy Emergency Alert 3 - ISO is unable to meet minimum Contingency Reserve requirements and controlled power curtailments are imminent or in progress according to each utility's emergency plan. Maximum conservation by consumers requested.

Evacuation - Organized, phased, and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas and their reception and care in safe areas.

Excessive Heat Warning - An excessive heat warning means that many individuals can be affected, some seriously, by heat if precautions are not taken.

Excessive Heat Watch - An NWS product that is issued 36-48 hours prior to an event to give advance notice of the possibility of excessively hot conditions. Criteria match those of an Excessive Heat Warning.

Extreme Temperatures - Environmental temperatures (low or high) that are often slower to develop, taking several days of continuous, oppressive extreme temperatures before a significant or quantifiable impact is seen.

Federal - Of or pertaining to the federal government of the United States of America.

Freeze - A freeze is when the surface air temperature is expected to be 32°F or below over a widespread area for a climatologically significant period of time.

Freeze/Hard Freeze Warnings - Surface temperatures are expected to drop below freezing over a large area for an extended period of time, regardless of whether or not frost develops.

Freeze/Hard Freeze Watch - A Freeze Watch is issued when there is a potential for significant, widespread freezing temperatures within the next 24-36 hours and may be issued in the autumn until the end of the growing season (marked by the occurrence of first widespread freeze).

Hazard - Something that is potentially dangerous or harmful, often the root cause of an unwanted outcome.

Heat Advisory - A heat advisory means that some individuals can be affected by heat if precautions are not taken.

Heat Cramps - Symptoms: painful spasms usually in leg muscles and possibly the abdomen, and heavy sweating.

Heat Exhaustion - Symptoms: heavy sweating, weakness, cold, pale and clammy skin, possible fainting, and vomiting. Normal temperature is possible.

Heat Index - A factor used to determine how hot it feels based on temperature and relative humidity. Heat index values can be up to fifteen degrees higher with exposure to direct sunlight. Heat index values assume calm wind conditions. Hot dry winds can also increase heat index factors. NWS has determined that the HI is no longer representative of California's climate. Individuals in all levels of government, the private sector, non-profit, and community-based organizations are now urged to utilize HeatRisk as the NWS product of choice.

Heat Island - An urban area having a higher average temperature than its rural surrounding due to the greater absorption, retention, and generation of heat by its buildings, pavements, and human activities.

Heat Warning - An excessive heat warning means that many individuals can be affected, some seriously, by heat if precautions are not taken.

HeatRisk - The NWS is producing experimental forecasts which provide daily guidance on potential heat risks, out to 7 days. This risk is assessed by comparing the official NWS temperature forecast to local thresholds which change through the year based on climatology.

Heat Stroke - An individual medical condition with symptoms of high body temperature (106°F or higher), hot, dry skin, rapid and strong pulse, and possible unconsciousness.

Heat Wave (Extreme / Excessive Heat Event) - When temperatures reach 10°F or greater above the average high temperature for the region, last, or predicted to last, for a prolonged period of time. A heat wave is often accompanied by high humidity.

Incident Command System (ICS) - A standardized on-scene emergency management construct specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents.

Joint Information Center - A centralized facility for coordinating an organized, integrated, release of critical emergency information, crisis communications and public affairs functions, which is timely, accurate, and consistent.

Local Emergency - As defined in Government Code Section 8558 (c) local emergency means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission (CPUC).

Local Government - As defined in SEMS regulations, is a city, county, city and county, school district, or special district.

Mitigation - Provide a critical foundation in the effort to reduce the loss of life and property from natural and/or human-caused disasters by avoiding or lessening the impact of a disaster and providing value to the public by creating safer communities. Mitigation seeks to fix the cycle of disaster damage,

reconstruction, and repeated damage. These activities or actions, in most cases, will have a long-term sustained effect.

Mutual Aid Agreements and/or Assistance Agreements - Written or oral agreements between and among agencies/organizations and/or jurisdictions that provide a mechanism to quickly obtain emergency assistance in the form of personnel, equipment, materials, and other associated services. The primary objective is to facilitate rapid, short-term deployment of emergency support prior to, during, and/or after an incident.

National Incident Management System (NIMS) - Provides a systematic, proactive federal approach guiding government agencies at all levels, the private sector, and NGO to work seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, to reduce the loss of life or property and harm to the environment.

Non-Governmental Organizations (NGO) - An entity with an association based on the interests of its members, individuals, or institutions. It is not created by a government, but it may work cooperatively with the government. Such organizations serve a public purpose, not a private benefit. Examples of NGO include faith-based charity organizations and the American Red Cross.

Operational Area (OA) - As defined in Government Code Section 8559 (b), an operational area is an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area.

Organization - Any association or group of persons with like objectives. Examples include, but are not limited to, governmental departments and agencies, private sector, and/or nongovernmental organizations.

Partner emails - Emails distributed by the National Weather Service to alert governmental and other response agencies containing weather forecasting notification information, charts, maps, graphs, and any other pertinent situational awareness information.

Private Sector - Organizations and entities that are not part of any governmental structure. The private sector includes for-profit and not-for-profit organizations, formal and informal structures, commerce, and industry.

Protocols - Sets of established guidelines for actions (which may be designated by individuals, teams, functions, or capabilities) under various specified conditions.

Public Information - Processes, procedures, and systems for communicating timely, accurate, and accessible information on the incident's cause, size, and current situation; resources committed; and other matters of general interest to the public, responders, and additional stakeholders (both directly affected and indirectly affected).

Public Information Officer (PIO) - A member of the Command Staff (Management Staff at the SEMS EOC Levels) responsible for interfacing with the public and media and/or with other agencies with incident-related information requirements.

Public Safety Power Shutoff (PSPS) – A preventative measure of last resort if an electric utility reasonably believes that there is an imminent and significant risk that strong winds may topple power lines or cause major vegetation-related issues leading to increased risk of fire.

Relative Humidity - the ratio of the partial pressure of water vapor to the equilibrium vapor pressure of water at a given temperature. Relative humidity depends on temperature and the pressure of the system of interest. The same amount of water vapor results in higher relative humidity in cool air than warm air.

Rolling or Rotating Blackout - A process of cutting off service to selected customers for a predetermined period (usually not more than two hours) to retain the integrity of the power grid.

Social Vulnerability Index (SVI) – A tool developed by the CDC that evaluates social factors in a community, such as poverty, lack of access to transportation, and crowded housing that may weaken that community's ability to prevent human suffering and financial loss in a disaster. The Agency for Toxic Substances and Disease Registry (ATSDR) and the GRASP created SVI databases to help emergency response planners and public health officials identify and map communities that will most likely need support before, during, and after a hazardous event.

Stafford Act - The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) establishes the programs and processes for the federal government to provide disaster and emergency assistance to states, local governments, tribal nations, individuals, and qualified private nonprofit organizations. The provisions of the Stafford Act cover all hazards including natural disasters and terrorist events. Relevant provisions of the Stafford Act include a process for Governors to request federal disaster and emergency

assistance from the President. The President may declare a major disaster or emergency.

Standardized Emergency Management System (SEMS) - A system required by California Government Code and established by regulations for managing response to multiagency and multijurisdictional emergencies in California. SEMS consists of five organizational levels, which are activated as necessary: field response, local government, operational area, region, and state. Based upon the Incident Management System (ICS), the Multi-Agency Coordination System (MACS), the OA concept, and the Master Mutual Aid Agreement and related mutual aid systems.

State Operations Center (SOC) - The SOC is operated by the California Governor's Office of Emergency Services at the State Level in SEMS. It is responsible for centralized coordination of state resources. It is also responsible for providing updated situation reports to the Governor and Legislature.

State Emergency Plan - As defined in Government Code Section 8560 (b), the State of California Emergency Plan as approved by the Governor. Where in effect as defined in Government Code §8568, the State Emergency Plan shall be in effect in each political subdivision of the state, and the governing body of each political subdivision shall take such action as may be necessary to carry out the provisions thereof.

State of Emergency - As defined in Government Code Section 8558 (b), state of emergency means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a state of war emergency, which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the CPUC.

A state of emergency proclamation by the Governor is warranted when:

- There exists conditions of disaster or of extreme peril to the safety of persons, which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California PUC [Government Code Sections 8558(b)and 8625]; or
- The Governor is requested to do so by the mayor of a city or the chairman of the county board of supervisors or the county administrative officer; or
- The Governor finds that local authority is inadequate to cope with the emergency; and
- Local emergency response costs are significant to make these costs eligible for reimbursable under the California Disaster Assistance Act or as a prerequisite for a request for federal disaster assistance for state and local governments.

Warming Centers - a short-term emergency shelter that operates when temperatures or a combination of precipitation, wind chill, wind and temperature become dangerously inclement.

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Appendix M: Acronyms List

Acronyms used throughout this plan and their full names are listed below as they appear in the document:

ADA	American Disabilities Act
AFN	Access and Functional Needs
ATSDR	Agency for Toxic Substances and Disease Registry
APD	Adult Programs Division (part of CDSS)
BANC	Balancing Authority of Northern California
BCHS	Business, Consumer Services, and Housing Agency
CAHAN	California Health Alert Network
CA ISO	California Independent System Operator
CAPA	California Association of Public Authorities
Cal OES	California Office of Emergency Services
CalEPA	California Environmental Protection Agency
Caltrans	California Department of Transportation
CalWORKs	California Work Opportunity and Responsibility to Kids
CCLD	Community Care Licensing Division (part of CDSS)
CDA	California Department of Aging
CDE	California Department of Education
CDFA	California Department of Food & Agriculture
CDPH	California Department of Public Health
CDSS	California Department of Social Services
CERT	Community Emergency Response Team
CFILC	California Foundation for Independent Living Centers
CHHSA	California Health and Human Services Agency
CLETS	California Law Enforcement Telecommunications System
CMD	California Military Department (Cal Guard)
CPUC	California Public Utilities Commission

CSBG	Community Service Block Grants
CSD	Community Services & Development
CSWC	California State Warning Center
CUEA	California Utilities Emergency Association
DDS	Department of Developmental Services
DGS	Department of General Services
DHCS	Department of Health Care Services
DOC	Department Operations Center
DOR	Department of Rehabilitation
DSB	Disaster Services Branch (part of CDSS)
DSH	Department of State Hospitals
D-SNAP	Disaster Supplemental Nutrition Assistance Program
EDD	Employment Development Department
EDIS	Emergency Digital Information System
EFAP	Emergency Food Assistance Program
EIDL	Economic Injury Disaster Loans
EMPG	Emergency Management Program Grant
EMSA	California Emergency Medical Services Agency
EOC	Emergency Operations Center
EPO	Emergency Preparedness Office (part of CDPH)
FEMA	Federal Emergency Management Agency
GRASP	Geospatial Research, Analysis, and Services Program
HCD	Department of Housing and Community Development
HI	Heat Index
IA	Individual Assistance
ICF	Intermediate Care Facilities
ICS	Incident Command System
IDE	Initial Damage Estimates

IHSS/APS	In-Home Supportive Services/Adult Protective Services
IID	Imperial Irrigation District
ILC	Independent Living Centers
ISO	California Independent System Operator
LAC	Local Assistance Center
LADWP	Los Angeles Department of Water & Power
LEMSA	Local Emergency Medical Services Agency
LIHEAP	Low Income Home Energy Assistance Program
LIHWAP	Low Income Household Water Assistance Program
LIWP	Low Income Weatherization Program
MACs	Multi-Agency Coordination
MARAC	Mutual Aid Regional Advisory Committee
MHOAC	Medical Health Operational Area Coordinator
MHP	Mental Health Practitioner
MHRC	Mental Health Regional Coordinator (Center)
NGOs	Non-Governmental Organizations
NIMS	National Incident Management System
NOAA	National Oceanic and Atmospheric Administration
NWS	National Weather Service
OA	Operational Area
OAFN	Cal OES Office of Access and Functional Needs
OCCPA	Cal OES Office of Crisis Communications and Public Affairs
OEHHA	California Office of Environmental Health Hazard Assessment
OPA	Office of Public Affairs (part of CDPH)
PDA	Preliminary Damage Assessment
PHF	Psychiatric Health Facilities
PIO	Public Information Office (Officer)
PSAs	Public Service Announcements

PUC	Public Utilities Commission
RDMHC	Regional Disaster Medical Health Coordinator
RDMHS	Regional Disaster Medical Health Specialist
SBA	Small Business Administration
SBC	Southern Baptist Convention
SEMS	Standardized Emergency Management System
SNFs	Skilled Nursing Facilities
SOC	State Operations Center (Cal OES)
SRO	Single Resident Occupancy
TID	Turlock Irrigation District
TTY / TDD	Teletype / Telecommunications Device for the Deaf
UCG	Unified Coordination Group
USDA	US Department of Agriculture
WALC	Western Area Power Administration, Lower Colorado

Appendix N: Helpful Resources and Web Site References

- *State of California Emergency Plan & Emergency Support Functions* at https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/state-of-california-emergency-plan-emergency-support-functions/
- The 2018 *California State Hazard Mitigation Plan* (SHMP) at https://www.caloes.ca.gov/wp-content/uploads/002-2018-SHMP_FINAL_ENTIRE-PLAN.pdf
- Cal/OSHA *heat illness prevention regulations and related information* at http://www.dir.ca.gov
- *Electric Power Disruption Toolkit for Local Government*, Office of Emergency Services, June, 2012 at https://www.caloes.ca.gov/wp-content/uploads/Preparedness/Documents/Electric-Power-Disruption-Toolkit-January-2020-FINAL.pdf
- NWS Experimental HeatRisk*: Identifying Potential Heat Risks in the Seven Day Forecast Excessive Heat Events Website at* https://www.wrh.noaa.gov/wrh/heatrisk/
- *Heat wave: A Major Summer Killer*, NWS Publication, http://www.nws.noaa.gov/om/brochures/heat_wave.shtml
- California Department of Food and Agriculture *Animal Disease Emergency Management Program* on the CDFA website https://www.cdfa.ca.gov/AHFSS/Animal_Health/Emergency_Management.h
- California Department of Public Health *Effective Cleaning Strategies September 26, 2018*

  https://www.cdph.ca.gov/Programs/CHCQ/HAI/Pages/EnvironCleanEffectiveCleaningStrategies.aspx
- Center for Disease Controls *COVID-19 and Cooling Centers,* April 11, 2020 https://www.cdc.gov/coronavirus/2019-ncov/php/cooling-center.htm
- California Department of Public Health *Guidance for Cooling Centers on COVID-19*, https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/GuidanceforCoolingCenters.aspx.

- ATSDR's, *CDC Social Vulnerability Index (SVI)* webpage https://svi.cdc.gov/factsheet.html.
- California Environmental Protection Agency. (2021). Understanding the Urban Heat Island Index. Retrieved from CalEPA: https://calepa.ca.gov/climate/urban-heat-island-index-for-california/understanding-the-urban-heat-island-index/
- United States Environmental Protection Agency (EPA) (2016). Excessive Heat Events Guidebook. Retrieved from EPA: https://www.epa.gov/sites/default/files/2016-03/documents/eheguide_final.pdf

Fact Sheet

California Emergency Disaster Proclamation and CDAA Process

The following processes and factors are used to determine the magnitude and severity of an event based on a local government agency's capacity and capabilities to respond and recover.

Disaster Emergency Proclamation Process

Local Emergency Proclamation

If a local government determines effects of an emergency are beyond the capability of local resources to mitigate effectively, the local government must proclaim a local emergency.

Pursuant to *California Government Code section 8680.9*, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster. The purpose of a local emergency proclamation is to provide extraordinary police powers; immunity for emergency actions; authorize issuance of orders and regulations; activate pre-established emergency provisions; and is a prerequisite to request state or federal assistance. A local emergency proclamation can only be issued by a governing body (city, county, or city and county) or an official designated by local ordinance. The proclamation must be issued within 10 days of the incident and ratified by the governing body within 7 days. Renewal of the resolution should occur every 60 days until terminated.

It should be noted a local emergency proclamation is not required for fire or law mutual aid; direct state assistance; American Red Cross assistance; a Fire Management Assistance Grant (FMAG); or disaster loan programs from the U.S. Department of Agriculture (USDA) or U.S. Small Business Administration (SBA).

State of Emergency Request

Pursuant to *California Government Code section 8625,* the Governor may proclaim a State of Emergency in an area affected by a natural or human-made disaster, when requested to do so by the governing body of the local agency affected, or the Governor finds the local authority is inadequate to cope with the emergency.

A local jurisdiction should request the Governor to proclaim a state of emergency when the governing body of a city, county, or city and county determine:

- Emergency conditions are beyond the control of the services, personnel, equipment, and facilities of any single county, city, or city and county, and
- Emergency conditions require the combined forces of a mutual aid region or regions to combat.

California Disaster Assistance Act Funding Process

Request

As set forth in the *California Government Code, Title 2, Division 1, Chapter 7.5 - California Disaster Assistance Act (CDAA)*, only a governing body of a city (mayor or chief executive), county (chairman of a board of supervisors or county administrative officer), or city and county may seek financial assistance through CDAA, by order of a Director's Concurrence or Governor's Proclamation. The request for CDAA can be included in a local emergency proclamation; however, it is more appropriate to request CDAA on separate letterhead once the governing body has identified, and can certify, local resources are insufficient and the situation is beyond its capabilities.

Verification of Damage

When the governing body submits its local proclamation of emergency to the California Governor's Office of Emergency Services (OES) Regional Operations, the package should include an Initial Damage Estimate (IDE). An IDE is the local governments' identification of the impacts and local response and recovery activities. The IDE assists Cal OES to understand the jurisdictions' damage and prioritize Preliminary Damage Assessment (PDA) efforts, which in turn can lead to a state or federal disaster declaration. An Operational Area must include all its affected governing bodies (cities, towns, etc.), special districts (school districts, water districts, community services districts, etc.), and private non-profit organizations within the IDE. Cal OES Regional Operations then forwards the IDE to Cal OES headquarters, which includes a Regional Event Summary (RES) update delineating the impact of the event.

An IDE should include:

- Type and extent of public and private sector damage;
- Estimates of damage and emergency response costs; and
- Any acute public health and environmental issues.

To assist the Governor in determining if funding under CDAA should be authorized, the IDE and RES are reviewed, and if warranted, a State pre-assessment is conducted by Cal OES Recovery. Cal OES works with local jurisdictions' emergency management and/or public safety agencies in the Operational Areas affected by the disaster event to accomplish these assessments.

Once a determination is made, Cal OES will notify the requesting jurisdiction in a timely manner (verbally by Cal OES Region and in writing by Cal OES Recovery).

Factors Utilized in Consideration

In evaluating a local government's request for financial assistance under CDAA, a number of factors, and relevant information, are considered in determining the severity, magnitude, and impact of a disaster event and developing a recommendation to the Governor. The very nature of disasters, their unique circumstances, and varied impacts impedes a complete listing of factors considered when evaluating disaster declaration requests; however, primary considerations are as follows, in no particular rank:

Factors Considered

- √ Activation of Emergency Operations Plan and Emergency Operations Center
- √ Amount and type of damage (includes response costs, emergency protective measures, debris removal, public infrastructure damage, number of businesses affected, and number of homes destroyed/with major damage)
- √ Amount of available funding at the local level
- √ Available assistance or additional programs from other sources (Federal, State, local, voluntary/NGOs)
- √ Costs of event distributed per population (per capita)
- √ Dispersion or concentration of damage
- √ Existence of an approved Local Hazard Mitigation Plan
- √ History or frequency of disasters over a recent time period
- √ Imminent threats to public health and safety or the environment
- √ Impact on the infrastructure of affected area(s) or critical facilities
- √ Impacts to essential government services and functions
- √ Level of insurance coverage in place for public facilities and homeowners
- √ Per capita income and poverty level of the operational area
- √ Requirement or request for regulatory, statutory, or permit extension waiver or relief
- √ Resource commitments (Local, Regional, State Mutual Aid Assets)
- √ Unique capability of State government

Events Outside the State's Capabilities

If an incident is of such severity and magnitude that effective response is beyond the capabilities of the affected local government and the State or Indian tribal government, and supplementary assistance is necessary, the Governor may request federal assistance, including a presidential emergency or disaster declaration.

Presidential Declaration Request

Pursuant to *Tittle 44 of the Code of Federal Regulations*, the Governor may request the President declare an emergency or major disaster exists in the State, in accordance with the authority outlined by the Stafford Act. A Presidential Declaration is determined through evaluation of several factors, including the cause of the disaster event, damage, needs, certification by state officials that state and local governments will comply with cost sharing and other requirements, and official requests for assistance.

In requesting supplemental federal assistance, the Governor must:

- Certify that the severity and magnitude of the disaster exceeds local capabilities;
- Certify federal assistance is necessary to supplement the efforts and available resources of the State and local governments, disaster relief organizations, and compensation by insurance for disaster related losses;
- Confirm execution of the state's emergency plan;
- Certify adherence to cost-sharing requirements; and
- Conduct a joint Federal-State preliminary damage assessment (PDA) to analyze
  - FEMA: Individual Assistance, Public Assistance, and Hazard Mitigation
  - SBA: Individuals and Households

Updates to County Emergency Plan Legislation
Content, Submission, and Review
Fact Sheet

Cal OES, Planning and Preparedness Branch **January 2024**

Overview

Between 2016 and 2023, there have been eight bills amending or adding to Government Code (Gov. Code) regulating county emergency plans:

- AB 2311 (Brown, Ch. 520, Stats. 2016)
- AB 477 (Cervantes, Ch. 218, Stats. 2019)
- SB 160 (Jackson, Ch. 402, Stats. 2019)
- AB 2386 (Bigelow, Ch. 254, Stats. 2020)
- AB 2968 (Rodriguez, Ch. 257, Stats. 2020)
- AB 580 (Rodriguez, Ch. 744, Stats. 2021)
- AB 2645 (Rodriguez, Ch. 247, Stats. 2022)
- AB 781 (Maienschein, Ch. 344, Stats. 2023)

These bills introduce new requirements regarding county emergency plan (1) submission, (2) content and planning process, and (3) review.

In addition, AB 1638 (Fong, Ch. 587, Stats. 2023) adds to Gov. Code relating to local government providing emergency response services. The bill introduces requirements on the manner in which information is provided in languages other than English, commencing January 1, 2025.

Plan Submission (AB 580)

"A county shall send a copy of its emergency plan to the [California Governor's] Office of Emergency Services [(Cal OES)] on or before March 1, 2022, and upon any update to the plan after that date." (Gov. Code, § 8593.3.2, subd. (a).) For the purposes of this requirement and subsequent review, counties will submit their Operational Area (OA) plans if the OA plan serves as the county plan. Counties will submit their plans to their Cal OES Regional Office.

Content and Planning Process

Access and Functional Needs (AFN) (AB 2311, AB 477, AB 2645)

Upon the next update of a county emergency plan, AFN must be integrated into emergency plans by addressing, at a minimum, how the population with AFN is served by the following (Gov. Code, § 8593.3, subd. (a)(1), (2) & (3)):

1. Emergency communications, including the integration of interpreters, translators, and assistive technology.

2. Emergency evacuation, including all of the following:
    a. The identification of transportation resources and resources that are compliant with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) for individuals who are dependent on public transportation.
    b. Integrating evacuation and transportation plans to account for local community resilience centers.
    c. Ensuring that local community resilience centers are prepared to serve as community-wide assets during extreme heat events and other disasters.
    d. Designating available locations that may be necessary to provide respite to individuals during emergencies, including, but not limited to, extreme heat, cold, or unhealthy air incidents.
    e. Integrating evacuation plans to account for the following:
        i. Community resilience center programs, as specified.
        ii. Fairground resilience center programs, as specified.
3. Emergency sheltering, including both of the following:
    a. Ensuring that designated shelters are compliant with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or can be made compliant through modification and that showers and bathrooms are fully accessible to all occupants.
    b. Integrating sheltering and transportation plans to account for transportation between community resilience centers and shelters.

Additionally, counties shall include representatives from the AFN population when updating the emergency plan to integrate AFN needs. These representatives include, but are not limited to, members of the community, social service agencies, nonprofit organizations (e.g., Independent Living Centers), and transportation providers. (Gov. Code, § 8593.3 (c).)

Cultural Competence (SB 160 and AB 1638)

In the next update of a county emergency plan, counties must include cultural competence into emergency plans by addressing, at a minimum, how culturally diverse communities within a county are served by the following (Gov. Code, § 8593.3.5, subd. (a)(1), (2), (3), (4) & (5)):

1. Emergency communications, including the integration of interpreters and translators.
2. Emergency evacuation and sheltering.
3. Emergency mitigation and prevention.
4. Emergency planning, including drawing on community-based values and customs, and incorporating qualified representatives from diverse population groups in the community, during the planning process.
5. Emergency preparedness, including the use of culturally appropriate resources and outreach techniques to educate and prepare community members for emergencies or disasters.

Additionally, during the update process, counties "shall provide a forum for community engagement in geographically diverse locations to engage with culturally diverse communities within its jurisdiction." (Gov. Code, § 8593.3.5, subd. (b).)

Commencing January 1, 2025, in the event of an emergency within the jurisdiction of a local agency that provides emergency response services and that serves a population within which 5% or more speak English less than "very well" according to data from the American Community Survey and jointly speak a language other than English, the local agency shall provide information related to the emergency in English and in all languages spoken jointly by the 5% or more of the population that speaks English less than "very well." A local agency providing this information shall ensure that the quality of information translated is provided to individuals that speak English less than "very well" is as comprehensive, actionable, and timely as the information provided to English-speaking persons (Gov. Code § 7299.7).

Emergency Shelters: Persons with Pets (AB 781)

Requires, upon the next update to a city or county's emergency plan (Gov. Code, § 8593.10, subd. (b)(1)):

A. A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.
B. A city that has previously adopted an emergency plan designating emergency shelters shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.
C. Whenever a city or county designates any number of emergency shelters, it shall designate at least one emergency shelter that can accommodate persons with pets.
D. Whenever a city or county designates any number of emergency cooling centers, it shall, to the extent practicable, designate at least one cooling center that can accommodate persons with pets.
E. Whenever a city or county designates any number of emergency warming centers, it shall, to the extent practicable, designate at least one warming center that can accommodate persons with pets.

The bill requires an emergency shelter designated as able to accommodate persons with pets to be in compliance with safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan and applicable disaster assistance policies and procedures of the Federal Emergency Management Agency (Gov. Code, § 8593.10, subd. (b)(2).)

Plans Review

Schedule (AB 580 and AB 2386)

Cal OES will review emergency plans from at least 10 counties every year, beginning in 2022. Priority will be given to counties with a high risk for wildfire disaster (AB 580 and AB 2386). The office will review all county emergency plans by January 1, 2028. Cal OES will determine a yearly emergency plan review schedule and share it with the counties.

Content (AB 2386, AB 2968, AB 580)

In addition to SEMS/NIMS compliance, Cal OES will include the following in the review of emergency plans:

1. Whether the plan substantially conforms to or exceeds the recommendations in the Federal Emergency Management Agency Comprehensive Preparedness Guide 101 (CPG 101) (Gov. Code, § 8610(c)(2).)
2. Whether the plan is consistent with the Cal OES proposed best practices. (Gov. Code, § 8593.9, subd. (b)(1).)
3. Whether the plan protects and accommodates vulnerable populations during natural disasters. (Gov. Code, § 8593.9, subd. (b)(2).)
4. Whether the plan has established procedures for alerting, evacuating, and sheltering individuals during an emergency. (Gov. Code, § 8593.9, subd. (b)(3).)
5. The status of the county emergency alert system, including the different alerting systems used and the number of individuals signed up for each system. (Gov. Code, § 8593.3.2, subd. (b)(1).)
6. Evacuation routes and plans and shelter-in-place plans, including preparations for evacuating or caring for individuals with access and functional needs. (Gov. Code, § 8593.3.2, subd. (b)(2).)
7. Efforts at community outreach to prepare communities and individuals to take action in the event of an emergency or a disaster. (Gov. Code, § 8593.3.2, subd. (b)(3).)
8. Large animal evacuation plans. (Gov. Code, § 8593.3.2, subd. (b)(4).)
9. Plans to ensure the health and safety of citizens during power outages. (Gov. Code, § 8593.3.2, subd. (b) (5).)
10. Any other necessary and appropriate element, as determined by Cal OES. (Gov. Code, § 8593.9, subd. (b)(4).)

Upon the conclusion of the review process, Cal OES "shall provide technical assistance and feedback regarding the sufficiency of the county's emergency plan." (Gov. Code, § 8593.9, subd. (b).)

AFN Consultation (AB 580)

Upon request, Cal OES will review county emergency plans "in consultation with representatives of people with a variety of access and functional needs. . . to determine whether the plans are consistent with best practices and guidance issued by the Federal

Emergency Management Agency (FEMA), including those practices that relate to adequately addressing the needs of those individuals with access and functional needs, including people with disabilities." (Gov. Code, § 8593.3.2, subd. (b).)

Following the review, "the county shall develop and revise its emergency plan to address the issues that [Cal OES] identified in its review." (Gov. Code, § 8593.3.2, subd. (d).)

Summary

Submission

Recent legislation required all counties to submit their emergency plans to Cal OES for review by March 1, 2022.

Content and Planning Process

Upon the next update to county emergency plans, counties should incorporate the newest requirements regarding populations with access and functional needs, culturally diverse communities, and accommodating persons with pets in emergency shelters.

Review

Cal OES began reviewing existing (and updated) plans in 2022 and will review a minimum of 10 plans each year, prioritizing plans from counties with a high wildfire risk. Cal OES will continue to review emergency plans for alignment with the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS). NIMS concepts are met by following FEMA CPG 101 which provides guidelines on developing emergency plans. Cal OES has added the following to its review process: (1) consistency with best practices, (2) protection and accommodation of vulnerable populations, (3) procedures to alert and warn, evacuate, and shelter individuals during an emergency, (4) county emergency alert systems, (5) evacuation routes and plans and shelter-in-place plans, (6) community outreach, (7) large animal evacuation plans, and (8) plans to ensure the health and safety of citizens during power outages. A county may request consultation to advance the integration of access and functional needs within its emergency plans. The Cal OES Office of Access and Functional Needs (OAFN) facilitates this consultation. This AFN Evaluation process has been integrated into the Emergency Plan Review Crosswalk and the Cal OES emergency plan review process.

For more information, contact the Community Planning Unit at communityplanning@caloes.ca.gov.

Mutual Aid System



Click here to access the Mutual Aid Resource Database

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The Mutual Aid System is an extension of the concept of “neighbor helping neighbor.” The Law Enforcement Mutual Aid System was established in 1961 and has been used to restore order during emergencies, including civil unrest, and to provide assistance to local agencies during other unusual events or catastrophic disasters. As a component of the Standardized Emergency Management System (SEMS), the Mutual Aid System is based on four organizational levels: cities, counties, regions, and the State. The state is divided into seven Law Enforcement Mutual Aid Regions. The County Sheriff serves as the “Operational Area Mutual Aid Coordinator”. In each of the seven regions, one Sheriff, elected by his or her peers, serves as the Regional Mutual Aid Coordinator (RMAC). Cal OES Law Enforcement Branch has Assistant Chiefs assigned to each of the seven regions for direct coordination with law enforcement chiefs and sheriffs within each region.

The basic concept provides that within the operational area, adjacent or neighboring law enforcement agencies will assist each other. Should the event require assistance from outside the county, the region will provide requested assistance to the impacted county. If the combined resources of the region are insufficient to cope with the incident, the Regional Coordinator contacts the Cal OES Law Enforcement Branch for coordination of resources. A similar plan exists for Coroner and Search and Rescue Mutual Aid.

Planned events, such as concerts, parades, fairs, etc. are the responsibility of local agencies. Any requirement for additional public safety presence should be addressed through contractual arrangements. If any event, planned or spontaneous, appears that it may result in a request for mutual aid or some other special resource, an early call to the Cal OES Law Enforcement Branch is encouraged. A regional Law Enforcement Branch Assistant Chief will work directly with the jurisdiction to assist in plan development and resource coordination.

Law Enforcement Mutual Aid Documents

Blue Book: Law Enforcement Mutual Aid Plan

Critical Incident Response Plan for First Responders

California Law Enforcement Mutual Aid Radio System Plan (CLEMARS)

As an adjunct to effective mutual aid, the branch shares responsibility of the California Law Enforcement Mutual Aid Radio System [CLEMARS]. The CLEMARS Plan documents application for, and use of, the system.

Green Book: LEMA Search and Rescue Annex

LEMA Quick Reference Guide

Law Enforcement Reimbursement Process

Red Book: Law Enforcement Guide to Emergency Operations

The Law Enforcement Guide for Emergency Operations provides law enforcement agencies with a better understanding of the State's Emergency Management System, ICS, and provides guidance with law enforcement response to major emergencies.

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Alameda	03/25/1853	12/19/46	07/09/91		11/28/50		07/02/46	
Alameda	04/19/1854	06/24/47	09/05/72		12/19/50		01/22/47	06/22/16
Albany	09/22/1908	06/24/47	10/09/73	11/01/95	12/19/50		10/02/50	
Berkeley	04/01/1878	12/19/46	10/08/74	03/29/16	12/12/50		12/11/46	
Dublin	02/01/1982	09/29/03	01/14/85		06/13/83		02/18/03	
Emeryville	12/08/1896	06/16/49	08/30/65	07/11/17	12/11/50		03/15/48	
Fremont	01/23/1956	02/01/57	10/02/73		05/29/56		05/29/56	
Hayward	03/11/1876	11/29/50	05/22/90		12/04/50		07/28/59	
Livermore	04/01/1876	04/27/48	01/17/72		12/04/50		02/04/57	06/10/85
Newark	09/22/1955	02/01/57	05/11/72	10/03/13	01/10/57		01/10/57	
Oakland	05/04/1852	12/19/46	03/16/76	06/23/92	12/12/50		07/25/46	
Piedmont	01/31/1907	04/27/48	07/03/72		12/07/50		03/04/48	
Pleasanton	06/13/1894	06/16/49	05/01/72		05/13/51		05/13/57	
San Leandro	03/21/1872	04/27/48	06/28/71	07/06/71	12/04/50		03/01/48	
Union City	01/26/1959	12/12/60	03/19/73		09/19/60		09/16/60	
Alpine	03/16/1864	12/19/46	10/05/70		12/02/03		12/04/03	
Amador	05/11/1854	06/24/47	02/05/51	11/14/95	04/01/63		04/01/63	
Amador	06/02/1915	06/15/51	05/09/51		12/13/50		05/09/51	
Ione	03/23/1953	01/26/54	12/21/64		12/16/53		12/16/53	
Jackson	12/14/1905	06/15/51	12/21/64		12/21/64		12/21/64	
Plymouth	02/08/1917	06/15/51	05/03/51		07/20/51		05/03/51	
Sutter Creek	02/11/1913	09/12/50	08/21/50		12/04/50		08/21/50	
Butte	02/18/1850	12/19/46	01/30/73	04/21/92	11/27/50		08/23/46	
Biggs	06/26/1903	06/15/51	07/10/72	04/15/74	12/04/50		09/11/50	
Chico	01/08/1872	09/12/50	01/16/51	03/08/62	12/05/50		08/01/50	
Gridley	11/23/1905	06/16/49	04/02/73		12/04/50		05/17/48	
Oroville	01/03/1906	06/24/47	05/04/88		12/04/50		07/19/88	
Paradise	11/27/1979	10/08/85	12/06/83		11/16/82		12/06/83	
Calaveras	02/18/1850	09/12/50	11/17/75		12/04/50		04/22/63	
Angels Camp	01/24/1912	11/29/50	12/02/58		12/05/50		08/01/50	
Colusa	02/18/1850	12/19/46	10/01/85		12/04/50		08/17/50	
Colusa	04/04/1870	06/15/51	09/26/72		02/19/51		06/04/51	
Williams	05/19/1920	06/15/51	06/04/73		06/05/59		04/24/51	
Contra Costa	02/18/1850	12/19/46	10/19/82		11/27/50		09/04/46	
Antioch	02/06/1872	06/16/49	06/26/73	09/12/54	12/11/50		03/08/54	
Brentwood	01/21/1948	09/12/50	03/13/51	02/10/76	12/19/50		07/11/50	
Clayton	03/18/1964	10/27/83	02/07/73		07/07/82		07/07/82	
Concord	02/09/1905	09/12/50	08/02/71		03/24/58		03/05/84	
Danville	07/01/1982	10/08/85	03/04/85		02/21/85		02/21/85	
El Cerrito	08/23/1917	06/16/49	05/19/75		12/04/50		01/03/49	
Hercules	12/15/1900	06/23/52	04/24/52		12/28/50		08/11/50	
Lafayette	07/22/1968	08/14/69	06/11/69		06/11/69		06/11/69	
Martinez	04/01/1864	06/16/49	01/06/71		12/06/50		04/06/49	
Moraga	11/12/1974	10/08/85	01/18/84		01/04/84		01/04/84	
Oakley	07/01/1999	04/23/10	03/09/10	04/13/10	03/23/10		02/23/10	
Orinda	07/01/1985	08/16/89	11/24/86		08/26/86		08/26/86	
Pinole	06/25/1903	06/16/49	09/17/73		12/04/50		07/06/48	
Pittsburg	06/25/1903	05/01/51	09/08/59		12/04/50		01/06/86	
Pleasant Hill	11/16/1961	07/11/62	01/02/73		04/02/62		07/13/64	

CA Accredited Disaster Councils as of 7/15/2024

	Date Incorporated	Date Accredited	Date Emer. Ord.	Emer. Ord Amended	Date of Master Mutual Aid Res	MMA Res Amended	Date of DSW Resolution	DSW Res. Amended
Richmond	08/16/1905	06/24/47	04/30/73	06/04/84	12/11/50		12/30/46	
San Pablo	04/27/1948	09/12/50	02/05/51		12/04/50		07/10/50	
San Ramon	07/01/1983	08/16/89	12/23/85		12/10/85		12/10/85	
Walnut Creek	10/20/1914	11/29/50	02/07/72		12/06/50		09/06/50	
Del Norte	03/02/1857	06/24/47	03/22/76		12/12/50		04/15/47	
Crescent City	04/13/1854	06/16/49	05/10/76		12/11/50		10/11/48	
El Dorado	02/18/1850	12/19/46	07/22/75		12/04/50		12/03/46	
Placerville	05/13/1854	11/29/50	04/19/66		12/04/50		09/18/50	
South Lake Tahoe	03/30/1965	09/14/67	01/18/72		12/06/66		12/06/66	
Fresno	04/19/1856	04/27/48	12/05/78		12/05/50		09/23/47	
Clovis	02/27/1912	06/16/49	08/02/76		12/18/50		01/06/47	
Coalinga	04/03/1906	03/01/51	04/19/71		12/04/50		12/18/50	
Firebaugh	09/17/1914	01/26/54	07/22/74		11/27/50		07/15/53	
Fowler	06/15/1908	05/05/44	07/18/50		12/05/50		09/19/50	
Fresno	10/15/1885	09/12/50	01/13/87		11/30/50		09/28/50	
Huron	05/03/1951	01/26/54	06/20/79		06/03/53		06/03/53	
Kerman	07/02/1946	05/01/51	02/26/51		11/27/50		03/26/51	
Kingsburg	05/19/1908	06/20/55	09/05/72		07/16/51		07/19/54	
Mendota	06/17/1942	06/15/51	05/22/51		04/10/51		04/10/51	
Orange Cove	01/20/1948	11/29/50	08/15/50		12/04/50		10/02/50	
Parlier	11/15/1921	11/29/50	10/19/72		12/07/50		08/17/50	
Reedley	02/18/1913	06/15/51	05/18/71		12/05/50		05/15/51	
San Joaquin	02/14/1920	01/23/52	05/21/51		07/20/53		10/15/51	
Sanger	05/09/1911	05/01/51	03/07/51		12/06/50		04/04/51	
Selma	03/15/1893	07/07/50	09/01/71		12/04/50		04/17/50	
Glenn	03/11/1891	03/01/51	09/26/72		01/07/57		12/18/50	
Orland	11/11/1909	06/15/51	02/24/72		12/04/50		05/07/51	
Willows	01/16/1886	05/01/51	01/10/72		12/04/50		09/25/50	
Humboldt	05/12/1853	03/07/50	01/16/74		12/01/50		06/27/49	
Arcata	02/02/1858	11/29/50	03/05/75		12/01/50		10/06/50	
Blue Lake	04/23/1910	01/23/52	04/09/51		12/11/50		11/03/48	
Eureka	04/18/1856	03/07/50	06/03/75		12/26/50		06/07/49	
Ferndale	08/28/1893	06/16/49	12/07/48		01/02/51		12/07/48	
Fortuna	02/20/1906	03/07/50	11/19/73		01/06/51		07/05/49	
Rio Dell	02/26/1965	10/27/65	11/01/83		07/20/65	10/18/83	10/18/83	
Trinidad	11/07/1870	01/27/58	09/09/57		11/04/57		11/04/57	
Imperial	08/15/1907	12/19/46	05/31/73	03/29/90	12/04/50		02/06/73	
Brawley	04/16/1908	03/07/50	02/20/73		12/04/50		02/05/73	
Calexico	04/16/1908	09/12/50	10/21/86		12/05/50		09/19/50	
Calipatria	02/28/1919	04/30/57	02/13/73		03/19/59		04/09/57	
El Centro	04/16/1908	06/24/47	10/17/84		12/06/50		04/11/73	
Holtville	07/01/1908	11/29/50	11/23/54		12/13/50		09/20/50	
Imperial	07/12/1904	03/07/50	02/14/73		12/13/50		02/23/50	
Westmorland	06/30/1934	11/29/50	02/26/73		12/11/50		10/30/50	
Inyo	03/22/1856	12/19/46	08/07/72		12/05/50		11/08/50	
Bishop	05/06/1903	11/29/50	09/11/73		12/11/50		11/10/75	
Kern	04/02/1866	06/12/46	04/26/90	11/26/92	12/04/50		05/27/46	
Arvin	12/21/1960	10/18/61	06/12/61		02/12/73	04/26/76	07/10/61	

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Bakersfield	01/11/1898	06/16/49	05/27/68	08/27/73	12/04/50		08/09/48	
California City	12/08/1965	12/09/66	07/18/66		07/18/66		07/18/66	
Delano	04/13/1915	11/29/50	06/05/72		12/04/50		10/16/50	
Maricopa	07/25/1911	11/29/50	03/12/51		12/11/50		08/28/50	
McFarland	07/18/1957	06/25/58	05/21/58		05/21/58		05/21/58	
Ridgecrest	11/29/1963	10/08/85	01/03/74		06/11/73		12/05/83	
Shafter	01/20/1938	06/24/47	05/12/69		12/13/50		08/14/50	
Taft	11/22/1910	11/29/50	08/20/79		04/02/51		08/21/50	
Tehachapi	08/13/1909	11/29/50	12/18/72		12/04/50		10/02/50	
Wasco	12/22/1945	06/16/49	08/06/48		04/01/51		04/30/47	
Kings	03/22/1893	06/24/47	06/15/82		12/12/50		02/06/47	
Avenal	09/08/1979	06/16/82	05/27/82		05/13/82		05/13/82	
Corcoran	08/06/1907	06/16/49	11/15/82		12/04/50		04/04/49	
Hanford	08/12/1891	06/24/47	02/15/83		02/13/51		05/26/46	
Lemoore	08/04/1900	05/01/51	05/18/82		03/05/51		06/01/51	
Lake	05/20/1861	04/27/48	12/06/71	11/07/89	11/27/50		12/02/47	
Clear Lake	11/14/1980	02/26/87	12/02/85		12/02/85		12/02/85	
Lakeport	04/30/1888	06/15/51	06/19/72		12/05/50	09/02/52	04/16/51	
Lassen	04/01/1864	12/19/46	01/08/73		12/04/50		09/05/50	
Susanville	08/24/1900	05/01/51	06/15/70	02/05/73	07/23/56		04/23/51	
Los Angeles	02/18/1850	06/12/46	09/01/89		12/12/50		07/09/46	
Agoura Hills	11/08/1982	10/08/85	09/21/83		05/04/83		05/04/83	
Alhambra	07/11/1903	06/24/47	09/11/74		12/05/50		02/04/47	
Arcadia	08/05/1903	06/16/49	07/06/71		12/05/50		07/20/48	
Artesia	05/29/1959	11/09/59	07/09/79		08/03/59		09/14/59	
Avalon	06/26/1913	11/29/50	10/15/79		12/07/50		09/22/50	
Azusa	12/29/1898	06/16/49	09/16/85		12/04/50		04/04/83	
Baldwin Park	01/25/1956	05/24/57	03/15/67		11/05/56		02/18/57	
Bell	11/07/1927	06/24/47	06/20/83		12/04/50		12/16/46	04/15/74
Bell Gardens	08/01/1961	08/05/65	11/13/61		07/26/65		07/26/65	
Bellflower	09/03/1957	01/16/63	04/25/77		10/31/62		10/31/62	12/09/96
Beverly Hills	01/29/1914	06/24/47	12/08/90		04/29/52		01/21/47	
Bradbury	07/26/1957	12/12/60	06/08/67	12/15/81	11/01/60		11/01/60	
Burbank	07/15/1911	12/19/46	01/23/73		12/12/50		06/18/46	
Calabasas	04/05/1991	03/01/94	11/20/91		11/06/91		11/06/91	
Carson	02/19/1968	08/14/69	12/15/75		04/21/69		04/21/69	
Cerritos	04/24/1956	04/15/68	12/13/67	05/02/79	11/01/67		11/01/67	
Claremont	10/03/1907	06/24/47	11/14/72		12/05/50	12/11/84	12/11/84	
Commerce	01/28/1960	04/10/63	02/04/85		02/05/62		02/05/62	
Compton	05/11/1888	06/16/49	04/08/80		11/28/50		12/05/50	
Covina	08/14/1901	09/12/50	09/05/72		12/04/50		09/18/50	
Cudahy	11/10/1960	10/08/85	06/04/84		05/07/84		05/07/84	
Culver City	09/20/1917	06/16/49	03/22/71		12/11/50		06/05/89	
Diamond Bar	04/18/1989	01/28/92	05/21/91		04/18/89		05/07/91	
Downey	12/17/1956	06/25/58	05/08/79		05/26/58		05/26/58	
Duarte	08/22/1957	11/09/59	03/09/71		12/08/58		12/08/58	
El Monte	11/18/1912	06/16/49	12/05/72		12/04/50		12/06/48	
El Segundo	01/18/1917	06/16/49	01/04/77		11/29/50		10/27/48	
Gardena	09/11/1930	06/24/47	06/05/67	07/10/79	11/28/50		12/16/46	
Glendale	02/15/1906	12/19/46	07/27/71		11/16/50		07/30/46	
Glendora	11/13/1911	11/29/50	08/10/71		11/28/50		01/14/92	
Hawaiian Gardens	04/09/1964	03/22/73	09/12/72		03/27/73		08/22/72	

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Hawthrone	07/12/1922	06/16/49	01/12/81		11/28/50		12/12/50	
Hermosa Beach	01/10/1907	06/24/47	01/11/77		12/05/50		04/15/47	
Hidden Hills	10/19/1961	01/09/79	02/17/86		03/07/78		03/07/78	
Huntington Park	09/01/1906	06/12/46	06/27/77		12/04/50		05/06/46	
Industry	06/18/1957	12/15/98	12/01/86	08/27/98	08/27/98		08/27/98	
Inglewood	02/14/1908	06/16/49	06/04/85		11/28/50		06/22/48	
Irwindale	08/06/1957	04/10/63	10/09/75		11/27/62		11/27/62	
La Canada Flintridge	11/30/1976	01/09/72	06/20/77		06/20/77		11/20/78	
La Habra Heights	12/04/1978	11/14/79	06/21/79		12/11/73	06/07/79	06/07/79	
La Mirada	03/23/1960	10/31/63	08/09/77		09/24/63		09/24/63	
La Puente	11/21/1977	12/04/61	03/13/90		11/14/61		11/14/61	
La Verne	08/20/1906	06/16/49	04/04/77		12/04/50		11/01/48	
Lakewood	04/16/1954	08/14/59	02/05/74		06/09/59		06/09/59	
Lancaster	11/21/1977	11/14/79	09/03/85		08/06/79		08/06/79	
Lawndale	12/28/1959	04/25/66	09/20/76		01/16/61		09/20/76	
Lomita	06/25/1964	01/14/65	10/25/76		11/09/64		10/04/76	
Long Beach	12/13/1897	12/19/46	11/09/71		12/19/50		03/06/51	
Los Angeles	04/04/1850	12/19/46	07/25/89		02/26/51		07/01/46	
Lynwood	07/16/1921	06/16/49	05/06/80		12/05/50		10/19/48	
Malibu	03/28/1991	03/01/94	07/16/91		12/17/91		12/17/91	
Manhattan Beach	12/07/1912	06/16/49	11/16/71	09/07/76	12/05/50		09/07/76	
Maywood	09/02/1924	06/24/47	01/09/51	03/26/91	11/28/50		05/27/47	
Monrovia	12/15/1887	06/16/49	09/20/83		12/04/50		09/06/83	
Montebello	10/16/1920	12/19/46	05/08/90		12/04/50		06/17/46	
Monterey Park	05/29/1916	07/07/50	07/10/89		12/11/50		03/13/50	
Norwalk	08/26/1957	10/18/61	04/10/72		02/08/60		02/08/60	
Palmdale	08/24/1962	05/24/63	11/02/62	03/14/85	03/15/63		03/15/63	
Palos Verdes Estates	12/20/1939	04/30/57	12/14/76		11/29/56		02/26/57	
Paramount	01/30/1957	05/08/59	07/14/77		04/21/59		04/21/59	
Pasadena	06/19/1886	06/24/47	02/01/72		01/30/51		04/22/47	
Pico Rivera	01/29/1958	06/24/59	12/17/79		06/01/59		06/01/59	
Pomona	01/06/1888	06/12/46	05/16/83		12/05/50		04/25/50	
Rancho Palos Verdes	09/04/1973	11/25/74	09/17/74		09/03/74		09/03/74	
Redondo Beach	04/29/1882	11/29/50	02/14/77		12/11/50		03/28/77	
Rolling Hills	01/24/1957	08/14/59	08/07/74		07/13/59		07/13/59	
Rolling Hills Estates	09/18/1957	10/31/63	08/11/71		06/10/59		06/10/59	
Rosemead	08/04/1959	04/25/66	07/13/76		09/23/59		09/23/59	
San Dimas	08/04/1960	04/10/63	11/24/75		01/14/63		02/23/76	
San Fernando	08/31/1911	09/12/50	06/29/73		12/04/50		07/05/49	
San Gabriel	08/24/1913	06/16/49	08/03/71		12/12/50		10/19/48	
San Marino	04/25/1913	11/29/50	05/09/51	06/14/89	12/13/50		04/27/49	
Santa Clarita	12/15/1987	08/16/89	07/11/89		06/13/89		06/13/89	
Santa Fe Springs	05/15/1957	06/24/59	08/08/77		05/28/59		05/28/59	
Santa Monica	12/09/1896	12/19/46	09/26/78		12/12/50		11/28/61	
Sierra Madre	02/07/1907	06/16/49	11/12/69	10/27/81	12/12/50		04/12/49	
Signal Hill	04/22/1924	06/24/47	06/19/79		12/04/50		03/19/51	
South El Monte	07/30/1958	09/03/64	09/19/61	07/01/76	07/21/64		10/17/61	
South Gate	01/20/1923	06/16/49	08/13/84		11/27/50		11/29/48	
South Pasadena	03/02/1888	06/24/47	08/18/71		11/30/50		01/08/47	
Temple City	05/25/1960	09/14/67	12/01/80		06/21/66		04/18/67	
Torrance	05/12/1921	09/12/50	04/15/75	08/09/11	12/12/50		09/11/73	
Vernon	09/22/1905	07/16/51	03/18/80		04/18/51		05/01/51	
Walnut	01/19/1959	08/14/59	06/08/83		06/15/59		06/15/59	
West Covina	02/17/1923	11/29/50	02/11/80		05/25/51		08/27/79	
West Hollywood	11/29/1984	02/26/87	10/20/86		09/18/86		09/18/86	
Westlake Village	12/11/1981	10/08/85	12/20/84		11/14/84		11/14/84	

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Whittier	02/25/1898	06/16/49	09/20/83		11/28/50		11/08/48	
Madera	03/11/1893	09/12/50	03/28/72	04/09/91	12/07/50		07/05/50	
Chowchilla	02/07/1923	03/01/51	09/07/66		01/05/51		02/01/51	
Madera	03/27/1903	09/12/50	09/18/78		11/28/50		09/18/50	
Marin	02/18/1850	12/19/46	12/14/82		12/11/50		12/09/46	
Belvedere	12/24/1896	09/12/50	11/01/71		12/04/50		08/07/50	
Corte Madera	06/10/1916	07/16/51	01/03/72		05/19/58		05/19/58	
Fairfax	03/02/1931	06/16/49	03/12/73		12/08/50		12/10/48	
Larkspur	03/01/1908	05/01/51	12/01/71		12/06/50		01/03/51	
Mill Valley	09/01/1900	06/16/49	03/06/72		12/06/50		01/19/49	
Novato	01/20/1960	06/30/72	12/07/71		12/07/71		12/07/71	
Ross	08/21/1908	09/12/50	04/08/71		12/14/50		05/11/50	
San Anselmo	04/09/1907	06/24/47	01/25/72		12/12/50		04/08/47	
San Rafael	02/18/1874	06/16/49	01/15/73		12/04/50		03/22/55	
Sausalito	09/04/1893	09/12/50	10/19/71		12/05/50		07/25/50	
Tiburon	06/23/1964	12/09/66	12/13/71		10/10/66		10/10/66	
Mariposa	02/18/1850	05/01/51	05/24/83		01/05/51	12/06/88	10/25/50	
Mendocino	02/18/1850	12/19/46	03/24/87		12/01/50		01/22/51	
Fort Bragg	08/05/1889	09/12/50	10/26/81	11/09/81	04/09/51		08/16/50	
Point Arena	07/11/1908		07/26/05		12/05/50			
Ukiah	03/08/1876	09/12/50	09/19/73		12/06/50		08/16/50	
Willits	11/19/1888	05/01/51	05/25/83		11/27/50		02/19/51	
Merced	04/19/1855	09/12/50	11/20/90		08/26/58		08/26/58	09/20/72
Atwater	08/16/1922	06/15/51	11/26/62		12/06/50		04/04/51	
Dos Palos	05/04/1935	06/15/51	03/20/51		04/17/51		04/17/51	
Gustine	11/11/1915	09/12/50	03/05/51		12/04/50		08/07/50	
Livingston	09/13/1922	03/01/51	08/07/50		12/04/50		01/16/51	
Los Banos	05/08/1907	06/16/49	01/19/49		01/17/51		01/19/49	
Merced	04/03/1889	11/29/50	01/15/51		12/04/50		11/04/46	
Modoc	02/17/1874	06/24/47	05/19/86	03/20/89	03/04/57		08/21/50	05/19/86
Alturas	09/16/1901	01/27/58	06/11/56		07/09/56		07/09/56	
Mono	04/24/1861	06/16/49	12/10/85		12/04/50		11/22/83	
Mammoth Lakes	03/21/1893	02/26/87	11/20/85		11/06/85		11/06/85	
Monterey	02/18/1850	12/19/46	06/05/90		11/27/50		07/15/46	
Carmel-By-The-Sea	10/31/1916	06/16/49	05/14/79		12/06/50	02/06/63	05/07/79	
Del Rey Oaks	09/03/1953	12/09/66	05/27/75		01/24/55		02/28/55	
Gonzales	01/14/1947	05/01/51	05/05/75		12/05/50		04/03/51	
Greenfield	01/07/1947	03/01/51	04/16/74		12/19/50	03/17/70	03/17/70	
King City	02/09/1911	06/16/49	02/07/51		12/06/50	05/12/70	05/12/70	
Marina	11/12/1975	05/13/77	10/25/76		10/11/76		10/11/76	
Monterey	06/14/1889	06/16/49	12/20/71		12/05/50		09/19/78	
Pacific Grove	07/05/1889	06/16/49	03/21/90		12/20/50		01/05/49	
Salinas	03/04/1874	06/16/49	03/01/71		12/04/50		01/17/49	
Sand City	05/31/1960	10/27/83	07/20/82		07/20/82		07/20/82	
Seaside	10/13/1954	03/15/55	04/20/72		11/18/54		01/20/55	
Soledad	03/09/1921	06/16/49	04/10/51		12/12/50		04/10/51	
Napa	02/18/1850	06/16/49	09/19/72		03/11/52		01/11/49	06/13/67

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American Canyon	01/01/1992	11/21/97	08/07/97		08/21/97		08/21/97	
Calistoga	01/06/1886	06/15/51	11/01/88		12/01/50		12/01/50	
Napa	03/23/1872	06/16/49	11/05/73		12/18/50		05/09/49	
Saint Helena	03/24/1876	06/16/49	01/23/73		11/28/50		08/10/48	
Yountville	02/01/1965		03/04/03		02/04/03		02/04/03	
Nevada	04/25/1851	03/01/51	11/28/89		01/02/51		01/02/51	
Grass Valley	04/15/1861	09/12/50	11/28/72		12/12/50		07/25/50	
Nevada City	04/19/1856	06/15/51	04/12/51		04/12/51		04/13/51	
Truckee	03/23/1993		06/03/93					
Orange	03/11/1889	12/19/46	02/24/87		11/28/50		11/19/46	
Aliso Viejo	07/01/2001	10/23/02	06/05/02		06/05/02		06/05/02	
Anaheim	03/18/1878	06/19/49	09/27/77		11/28/50		04/07/59	
Brea	02/23/1917	06/16/49	04/20/76		12/06/50		05/03/83	
Buena Park	01/27/1953	03/15/55	09/21/87		12/29/53		09/05/78	
Costa Mesa	06/29/1953	03/15/55	11/03/80		04/19/54		04/19/54	
Cypress	07/24/1956	01/27/58	10/21/57		10/21/57		10/28/91	
Dana Point	01/01/1989	03/06/07	04/17/16	04/17/16	01/22/03		01/22/03	04/19/16
Fountain Valley	06/13/1957	04/10/63	02/04/92		12/14/59		01/21/92	
Fullerton	02/15/1904	12/19/46	03/06/51		11/28/50		05/21/46	
Garden Grove	06/18/1956	01/27/58	06/22/71	06/24/75	11/26/57		11/26/57	
Huntington Beach	02/17/1909	06/16/49	11/17/80		02/05/51		06/07/76	
Irvine	12/28/1971	12/07/77	04/26/77	03/26/91	04/12/77		04/12/77	
La Habra	01/20/1925	03/01/51	11/06/73		12/05/50		12/11/73	
La Palma	10/26/1955	01/27/58.	11/04/57		10/07/57		10/07/57	
Laguna Beach	06/29/1927	06/24/47	09/06/72		12/06/50		12/04/46	
Laguna Hills	12/20/1991	12/15/98	10/28/97		10/14/97		10/14/97	
Laguna Nigel	12/01/1989	12/17/98	06/21/94		06/06/90		04/16/93	12/01/98
Laguna Woods	03/24/1999	09/29/03	12/18/02		11/20/02		11/20/02	
Lake Forest	12/20/1991	12/02/99	08/02/94		02/16/99		02/04/92	02/16/99
Los Alamitos	03/01/1960	04/15/68	08/28/72		11/14/67		08/14/72	
Mission Viejo	03/31/1988	01/28/92	12/09/91		06/26/89		06/26/89	
Newport Beach	09/01/1906	12/19/46	10/09/73		12/26/50	12/10/73	12/10/73	
Orange	04/06/1888	06/16/49	08/28/73		12/05/50		08/21/73	
Placentia	12/02/1926	06/16/49	11/06/73		12/05/50		11/16/48	05/19/81
Rancho Santa Margarita	01/01/2000	08/23/04	09/18/03		09/04/03		09/04/03	
San Clemente	02/28/1928	06/16/49	11/01/72		12/06/50	11/01/72	11/01/72	
San Juan Capistrano	04/19/1961	06/30/70	10/23/61		10/23/61		10/23/61	
Santa Ana	06/12/1886	06/16/49	03/19/84		12/21/50		01/07/74	
Seal Beach	10/27/1915	06/16/49	08/21/67		12/27/50		11/25/74	
Stanton	06/04/1956	05/23/58	11/27/72		03/24/58		03/24/58	
Tustin	09/21/1927	06/16/49	04/21/75		12/04/50	06/15/59	04/07/75	
Villa Park	01/11/1962	12/07/77	07/21/77		06/16/77		11/17/77	
Westminster	03/27/1957	01/27/58	09/12/72		12/02/57		08/22/72	
Yorba Linda	11/02/1967	06/30/70	05/17/82		01/15/68		05/03/82	
Placer	04/25/1851	03/07/50	11/16/90		01/22/51		12/13/49	
Auburn	05/02/1888	06/16/49	01/25/72		12/14/50		07/21/48	
Colfax	02/23/1910	12/19/46	11/26/46		04/24/51		11/26/46	
Lincoln	08/07/1890	09/12/50	09/14/71		11/28/50		09/12/50	
Loomis	12/17/1984	11/20/06	12/10/96		10/13/04		10/12/04	
Rocklin	02/24/1893	03/01/51	12/20/71		04/16/51		10/09/50	
Roseville	04/10/1909	06/24/47	10/20/71		12/13/50		04/23/47	

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Plumas	03/18/1854	12/19/46	11/09/76		12/04/50		01/03/51	
Portola	05/16/1946	11/29/50	03/26/73		12/01/50		08/24/50	
Riverside	03/11/1893	12/19/46	11/15/88		12/04/50		12/09/46	
Banning	02/06/1913	07/07/50	06/12/90		11/28/50		12/14/48	
Beaumont	11/18/1912	12/19/46	01/13/75		01/24/51		08/28/46	
Blythe	07/21/1916	03/01/51	11/23/71		04/10/51		02/06/51	
Calimesa	12/01/1990	12/15/98	04/20/91	04/05/93	12/01/90		04/05/93	
Canyon Lake	12/01/1990	11/21/97	12/16/92		01/06/93		01/06/93	
Cathedral City	11/16/1981	10/08/85	01/18/84	02/10/10	01/04/84		01/04/84	
Coachella	12/13/1946	11/29/50	03/21/72		04/02/58		06/18/58	
Corona	07/13/1896	12/19/46	11/20/90		12/05/50		09/07/65	
Desert Hot Springs	09/24/1963	02/24/64	10/08/87		02/19/64		09/15/87	
Eastvale	10/01/2010	10/18/13	12/14/11		08/24/11		11/09/11	
Hemet	01/20/1910	06/16/49	09/25/94		12/04/50		11/01/48	
Indian Wells	07/07/1967	03/30/72	09/08/67		08/01/74		08/01/74	
Indio	05/16/1930	09/12/50	11/03/71		07/17/63		08/02/50	
Jurupa Valley	07/01/2011							
Lake Elsinore	04/20/1988	06/16/49	06/27/77		12/11/50		10/18/48	
La Quinta	05/01/1981	10/08/85	02/07/84		01/17/84		01/17/84	
Menifee	10/01/2008	01/05/10	06/02/09		05/20/09		05/20/09	
Moreno Valley	12/03/1984	03/01/94	08/13/91		06/25/91		06/25/91	
Murrieta	07/01/1991	03/01/94	02/04/92		11/05/91		11/05/91	
Norco	12/23/1964	06/19/67	07/03/72		03/20/67		03/20/67	
Palm Desert	12/16/1973	05/13/77	04/08/76		09/11/75		02/26/76	
Palm Springs	04/20/1938	12/19/46	07/06/83		12/06/50		08/06/80	
Perris	05/26/1911	09/12/50	08/12/68		12/01/50		08/04/50	
Rancho Mirage	07/17/1973	04/08/75	02/06/75		08/01/74		08/01/74	
Riverside	10/11/1883	04/27/48	06/02/87		12/19/50		12/19/72	
San Jacinto	04/20/1888	11/29/50	09/08/70		12/19/50		10/24/50	
Temecula	12/01/1989	11/21/97	08/27/91		02/23/93		02/23/93	
Wildomar	07/01/2008	02/28/10	01/27/10		04/22/09		01/13/10	
Sacramento	02/18/1850	12/19/46	10/01/73		12/06/50		08/16/50	
Citrus Heights	01/01/1997							
Elk Grove	07/01/2000	01/05/11	10/27/10		06/28/06	10/13/10	10/13/10	
Folsom	04/20/1946	11/29/50	12/17/70		12/06/50		09/01/50	
Galt	08/16/1946	09/12/50	08/30/63		11/28/50		05/31/50	
Isleton	05/14/1923	06/16/49	06/02/75		12/04/50		12/06/48	
Rancho Cordova	11/05/2002							
Sacramento	02/27/1850	06/24/47	04/21/81		12/07/50		12/27/46	
San Benito	02/12/1874	12/19/46	02/03/86		12/04/50		10/09/50	
Hollister	03/26/1874	01/23/52	05/20/74		12/18/50		12/18/50	
San Juan Bautista	05/04/1896	06/24/47	12/23/41		12/05/50		12/15/46	
San Bernardino	04/26/1853	12/19/46	01/09/84	06/08/04	01/08/51		10/01/72	08/06/13
Adelanto	12/22/1970	03/30/72	01/26/72		01/12/72	11/09/93	01/12/72	
Apple Valley	11/28/1988	01/28/92	10/31/89		11/27/90		11/27/90	
Barstow	09/30/1947	06/16/49	03/20/78		04/02/51	07/17/78	03/06/78	
Big Bear Lake	11/24/1980	06/16/82	01/13/82		01/27/82		01/27/82	
Chino	03/05/1910	06/16/49	08/05/86		12/19/50		11/05/48	
Chino Hills	12/01/1991	11/21/97	10/11/94		06/14/94		09/27/94	
Colton	07/20/1887	06/16/49	03/16/71		12/19/50		12/20/84	
Fontana	06/25/1952	02/28/53	05/19/87		03/02/54		05/03/83	
Grand Terrace	11/30/1978	06/27/79	01/18/79		01/18/79		01/18/79	

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Hesperia	05/23/1988	04/18/90	08/17/89		07/01/88		08/17/89	
Highland	11/23/1987	03/12/90	08/08/89		07/25/89		07/25/89	
Loma Linda	09/29/1970	05/13/77	12/13/76		05/23/72		12/13/76	
Montclair	04/25/1956	04/30/57	09/17/56	05/16/83	02/04/57		05/16/83	
Needles	10/30/1913	06/15/51	04/17/51		12/05/50		04/17/51	
Ontario	12/10/1891	06/16/49	07/18/89		12/04/50		11/21/89	
Rancho Cucamonga	11/22/1977	06/16/82	05/21/80		12/02/77		04/07/82	
Redlands	12/07/1888	04/27/48	02/01/72		01/18/72		01/18/72	
Rialto	11/17/1911	03/07/50	12/08/77		09/20/71		09/20/71	
San Bernardino	08/10/1869	06/16/49	06/29/71	10/17/90	02/19/51		06/20/82	
Twentynine Palms	11/23/1987	08/16/89	11/08/88		12/02/87		10/25/88	
Upland	05/15/1906	04/27/48	07/06/71	09/02/80	12/07/50		09/02/80	
Victorville	09/21/1962	07/19/63	11/03/87		07/10/63		02/15/83	
Yucaipa	11/27/1989	12/05/97	10/06/97		12/01/89		10/06/97	
Yucca Valley	11/27/1991	10/23/02	11/27/91	05/13/02	08/01/02		06/06/02	
San Diego	02/18/1850	12/19/46	05/12/81		12/11/50		09/03/46	
Carlsbad	07/16/1952	01/26/54	01/02/73		07/21/53		07/21/53	
Chula Vista	10/26/1911	06/16/49	08/01/72		04/10/51		07/29/82	
Coronado	07/13/1896	12/19/46	08/15/72		12/05/50		11/08/50	
Del Mar	07/15/1959	10/18/61	12/04/72		12/01/60		01/30/61	
El Cajon	11/20/1912	06/24/47	01/16/73		12/18/50		10/09/50	
Encinitas	10/01/1986	11/10/87	07/13/87	06/28/89	07/27/87		07/27/87	
Escondido	10/08/1888	11/29/50	09/13/72		12/06/50		10/04/50	
Imperial Beach	07/18/1956	06/30/58	07/18/72		04/02/57		02/23/50	04/02/57
La Mesa	02/16/1912	09/12/50	03/13/51		11/28/50		06/08/82	
Lemon Grove	07/01/1977	01/09/79	11/20/78		11/06/78		12/05/78	
National City	07/28/1887	06/16/49	11/14/72		12/05/50		11/08/50	
Oceanside	07/12/1888	06/16/49	05/23/73		12/13/50		11/10/48	
Poway	12/01/1980	03/10/82	11/10/81		11/10/81		11/10/81	
San Diego	03/27/1850	12/19/46	02/05/74		12/05/50		08/13/46	
San Marcos	01/28/1963	07/19/63	01/22/74		06/25/63		06/25/63	
Santee	12/01/1980	03/10/82	11/09/81		10/26/81		10/26/81	
Solana Beach	07/01/1986	08/16/89	11/16/87		11/02/87		11/02/87	
Vista	01/28/1963	08/05/65	12/11/72		06/25/63		06/25/63	
San Francisco	02/18/1850	12/19/46	02/22/72		04/23/51		09/30/46	
San Joaquin	02/18/1850	07/07/50	03/16/71		01/29/51		06/02/09	
Escalon	03/12/1957	05/08/59	06/21/71		06/02/58		03/12/57	09/03/58
Lathrop	07/01/1989							
Lodi	12/06/1906	09/12/50	06/02/71		04/06/11		07/19/50	
Manteca	06/05/1918	11/29/50	03/05/51	08/04/71	12/04/50		11/21/49	
Ripon	11/17/1945	09/12/50	02/20/51		12/19/50		07/18/50	
Stockton	07/23/1850	06/16/49	04/12/71		12/26/50		11/15/48	
Tracy	07/22/1910	06/16/49	12/15/70		12/05/50		02/15/49	
San Luis Obispo	02/18/1850	12/19/46	09/11/86		12/04/50		10/28/46	
Arroyo Grande	06/11/1911	03/01/51	04/22/75		04/04/51	11/09/71	04/08/75	
Atascadero	07/02/1972	02/26/87	02/14/89		07/14/86		07/14/86	
Grover Beach	12/21/1959	12/04/61	10/04/61		10/04/61		10/04/61	
Morro Bay	07/15/1964	04/25/66	04/27/65		04/27/65		04/27/65	
Paso Robles	03/11/1889	08/11/52	04/16/51		12/04/50		06/02/52	
Pismo Beach	04/25/1946	05/01/51	07/23/73		12/04/50		03/05/51	
San Luis Obispo	02/19/1856	05/01/51	04/17/72		12/04/50		11/06/72	

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San Mateo	04/19/1856	05/01/51	02/01/72		12/05/50		02/20/51	
Atherton	09/12/1923	06/16/49	04/24/73		11/28/50		10/26/48	
Belmont	10/29/1926	06/16/49	03/10/75		12/11/50		09/25/50	
Brisbane	11/27/1961	07/11/62	04/07/75		06/11/62	10/26/64	06/11/62	
Burlingame	06/06/1908	06/24/47	03/15/71		12/04/50		03/07/77	
Colma	08/05/1924	06/15/51	06/11/75		12/13/50		05/09/51	
Daly City	03/22/1911	06/24/47	11/28/77		12/26/50		03/24/47	
East Palo Alto	01/01/1983	08/23/04	12/05/83	12/15/03	11/21/83		11/21/83	
Foster City	04/27/1971	08/20/73	04/14/75	05/21/84	05/29/73		06/11/73	
Half Moon Bay	07/15/1959	12/09/66	09/18/73		01/07/64		07/18/67	
Hillsborough	05/05/1910	06/24/47	02/05/51		12/11/50		09/11/67	
Menlo Park	11/23/1927	06/16/49	12/14/76		11/28/50		10/26/48	
Millbrae	01/14/1948	11/29/50	10/28/75		12/05/50		10/17/50	
Pacifica	11/21/1957	05/23/58	07/09/75		04/05/58		04/05/58	
Portola Valley	07/14/1964	10/08/85	01/15/84	01/25/17	10/14/64		07/28/82	
Redwood City	03/27/1868	06/16/49	02/14/72		12/11/50		08/02/48	
San Bruno	12/23/1914	06/16/49	12/13/71		12/13/50		10/27/48	
San Carlos	07/08/1925	06/24/47	12/10/74		12/13/50	01/14/53	11/24/48	
San Mateo	09/04/1894	12/19/46	09/01/71		04/02/51		10/02/50	
South San Francisco	09/19/1908	06/16/49	09/20/71		12/12/50		11/15/48	04/07/58
Woodside	11/16/1956	01/27/58	05/09/57		05/09/57		12/12/57	
Santa Barbara	02/18/1850	12/19/46	02/21/78		12/04/50		03/13/78	
Buellton	02/01/1992	03/01/94	02/01/92	06/09/94	02/20/92		02/20/92	
Carpinteria	09/28/1965	06/19/67	07/10/72		02/27/67		10/29/73	
Goleta	02/01/2002	11/27/06	09/16/02		09/03/02		09/03/02	
Guadalupe	08/03/1946	06/15/51	02/05/51		12/18/50		05/14/51	
Lompoc	08/13/1888	05/01/51	11/16/71		12/19/50		04/03/51	
Santa Barbara	04/09/1850	06/24/47	05/20/75		12/07/50		01/16/47	
Santa Maria	09/20/1905	06/16/49	01/03/72		12/04/50		12/06/48	
Solvang	05/01/1985	07/30/86	10/10/85		09/26/85		09/26/85	
Santa Clara	02/18/1850	12/19/46	06/15/71		12/04/50		09/03/46	
Campbell	03/28/1952	12/11/52	11/08/71		09/15/52		11/08/71	
Cupertino	10/10/1955	01/27/58	01/18/71	09/18/95	05/20/57		05/20/57	
Gilroy	03/12/1870	05/01/51	09/02/75		03/05/51		03/05/51	
Los Altos	12/01/1952	09/06/55	04/25/67		03/15/55		03/15/55	
Los Altos Hills	01/27/1956	04/16/64	08/20/75	06/19/14	01/20/64		01/20/64	
Los Gatos	08/10/1887	06/16/49	01/18/71		12/18/50		11/13/50	
Milpitas	01/26/1954	03/15/55	08/07/90		09/21/54		10/19/54	
Monte Sereno	05/14/1957	01/14/65	04/21/64		07/07/64		07/07/64	
Morgan Hill	11/10/1906	05/01/51	11/21/84		12/06/50		04/05/51	
Mountain View	11/07/1902	06/16/49	11/28/88		12/06/50		06/04/47	
Palo Alto	04/23/1894	06/24/47	12/20/71		12/26/50		09/25/50	
San Jose	03/27/1850	06/24/47	04/27/76		12/04/50		01/06/47	
Santa Clara	07/05/1852	06/24/47	04/13/71		12/04/50		08/28/79	
Saratoga	10/22/1956	05/08/59	02/17/77		10/01/58		10/01/58	
Sunnyvale	12/24/1912	06/24/47	09/23/75		12/05/50		05/05/47	
Santa Cruz	02/18/1850	12/19/46	02/21/78		11/25/50		10/09/50	
Capitola	01/11/1949	07/07/50	03/12/51		01/08/51		06/05/50	
Santa Cruz	03/31/1866	12/19/46	02/13/51		11/06/50		07/15/46	
Scotts Valley	08/02/1966	08/14/69	03/13/69		03/13/69		03/13/69	
Watsonville	03/30/1868	09/12/50	03/22/72		12/12/50		09/12/50	
Shasta	02/18/1850	03/01/51	06/06/79		12/04/50		01/25/51	

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Anderson	01/16/1956	02/01/57	12/04/56		12/04/56		12/04/56	
Redding	10/04/1887	11/20/50	11/03/58		12/18/50		09/05/50	
Shasta Lake	07/02/1993	09/29/03	06/17/03		06/17/03		06/17/03	
Sierra	04/16/1852	12/19/46	11/20/79		12/01/50		11/01/46	
Loyalton	09/21/1901	06/16/49	09/14/71		11/28/50		06/22/48	
Siskiyou	03/22/1852	03/01/51	03/13/73		04/03/51	01/29/57	12/14/54	
Dorris	12/23/1908	01/27/58	11/04/57		11/04/57		11/04/57	
Dunsmuir	08/07/1909	11/29/50	02/07/51		12/05/50		10/18/50	
Etna	03/13/1878	01/27/58	11/05/56		04/02/51	11/05/56	10/06/58	
Fort Jones	03/16/1872	09/16/74	08/05/74		12/05/50	08/05/74	08/05/74	
Montague	01/28/1909	04/30/57	02/07/57		11/01/56		11/01/56	
Mount Shasta	05/31/1905	01/23/52	01/19/51		12/04/50		01/12/51	
Tulelake	03/01/1937	05/01/51	05/04/59		05/04/59		05/04/59	
Weed	01/25/1961	04/25/66	11/18/65		03/05/64		03/05/64	
Yreka	04/21/1857	11/29/50	03/15/51		12/21/50		06/16/49	
Solano	02/18/1850	06/24/47	03/01/83		11/29/50		01/27/50	
Benicia	03/27/1850	06/16/49	02/06/73		12/05/50		11/03/48	
Dixon	03/30/1878	09/12/50	06/20/72		12/05/50		07/18/50	
Fairfield	12/12/1903	11/29/50	10/05/71		12/05/50		08/22/50	
Rio Vista	01/06/1894	11/29/50	12/05/74		12/07/50		09/07/50	
Suisun City	10/09/1868	11/29/50	08/05/75		12/05/50		10/31/50	
Vacaville	08/09/1892	11/29/50	07/23/74		12/05/50		09/05/50	
Vallejo	03/30/1868	06/24/47	09/11/73		12/04/50		12/11/50	
Sonoma	02/18/1850	12/19/46	03/04/74		11/27/50		10/22/46	
Cloverdale	02/28/1872	06/16/49	03/04/75		12/11/50	01/06/59	08/13/48	
Cotati	07/16/1963	01/14/65	04/19/73		12/17/64		12/17/64	
Healdsburg	02/20/1867	06/16/49	12/21/71		12/04/50		12/04/50	
Petaluma	04/12/1858	06/16/49	08/20/72		12/04/50		04/19/48	
Rohnert Park	08/27/1962	07/19/63	08/20/73		06/03/63		06/03/63	
Santa Rosa	03/16/1868	04/27/48	12/07/71		12/05/50		01/19/51	
Sebastopol	06/13/1902	11/29/50	11/05/73		01/02/51		07/05/50	
Sonoma	06/22/1900	09/12/50	09/25/72		12/06/50		08/02/50	
Windsor	07/01/1992	11/21/97	11/05/97		11/05/97		11/05/97	
Stanislaus	04/01/1854	12/19/46	12/21/79	04/08/08	12/11/50		12/13/46	
Ceres	02/26/1918	06/23/52	07/10/51		12/27/50		06/09/52	
Hughson	11/30/1972	06/06/74	03/21/73		03/21/73		03/21/73	
Modesto	08/06/1884	05/01/51	12/22/71		12/06/50		03/21/51	
Newman	06/10/1908	06/15/51	08/08/72		12/12/50		05/08/51	
Oakdale	11/24/1906	11/29/50	09/02/58		04/02/51		09/11/50	
Patterson	12/24/1919	05/01/51	10/03/72		11/28/50		04/06/51	
Riverbank	08/23/1922	05/01/51	08/28/72		04/09/51		04/09/51	
Turlock	02/15/1908	07/07/50	08/03/71		12/05/50		04/04/50	
Waterford	11/07/1969	03/22/73	04/03/72		03/02/70		02/05/73	
Sutter	02/18/1850	12/19/46	06/28/88		11/30/50		11/04/46	
Live Oak	01/22/1947	06/15/51	04/18/73		05/02/51		05/02/51	
Yuba City	01/23/1908	06/24/47	05/20/74		12/04/50		01/16/50	
Tehama	04/09/1856	12/19/46	07/30/85		12/24/56	05/24/66	08/07/50	
Corning	08/06/1907	11/29/50	07/12/71		12/05/50		10/03/50	
Red Bluff	03/31/1876	05/01/51	03/12/74		03/05/51		04/02/51	

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Tehama	07/05/1906	05/08/59	05/01/74		02/05/58		02/05/58	
Trinity	02/18/1850	12/19/46	07/05/72		01/08/57		09/04/46	
Tulare	04/20/1852	09/12/50	07/17/90		10/31/50		07/11/50	
Dinuba	01/06/1906	06/16/49	06/11/70		11/09/50		11/26/48	
Exeter	03/02/1911	11/29/50	07/14/70		04/11/51		09/13/50	
Farmersville	10/05/1960	04/16/64	06/24/70		03/11/64		03/11/64	
Lindsay	03/05/1910	09/12/50	02/11/63		12/11/50		08/14/50	
Porterville	05/07/1902	06/24/47	11/05/70		12/05/50		05/06/47	
Tulare	04/12/1888	04/27/48	12/01/70		11/08/50		05/01/51	
Visalia	02/27/1874	06/16/49	01/02/62		11/06/50		10/03/50	
Woodlake	09/23/1941	11/29/50	06/08/70		11/27/50		09/19/50	
Tuolumne	02/18/1850	06/24/47	04/29/86		12/01/50		04/02/51	
Sonora	05/01/1851	06/15/51	06/07/71		12/04/50		05/07/51	
Ventura	03/22/1872	12/19/46	01/18/72		03/11/58		01/25/72	
Camarillo	10/22/1964	07/27/70	06/10/70		06/10/70		06/10/70	
Fillmore	07/10/1914	06/16/49	04/27/71		12/12/50	08/24/71	08/24/71	
Moorpark	07/01/1983	08/16/89	03/01/89		03/01/89		03/01/89	
Ojai	08/05/1921	06/16/49	03/28/49		12/26/50		03/28/49	
Oxnard	06/30/1903	07/07/50	02/14/84		12/05/50		04/18/50	
Port Hueneme	03/24/1948	09/12/50	08/18/71		12/26/50	10/06/71	10/06/71	
San Buenaventura	04/02/1866	06/24/47	12/13/71		02/05/51		02/05/51	
Santa Paula	04/22/1902	09/12/50	09/08/70		12/18/50	09/08/70	09/08/70	
Simi Valley	10/10/1969	03/13/74	07/30/84		06/28/71		08/23/71	
Thousand Oaks	10/07/1964	03/30/72	03/09/71		02/16/71		03/02/71	
Yolo	02/18/1850	06/24/47	11/20/79		12/01/50		12/17/46	
Davis	03/28/1917	09/12/50	02/13/51		02/13/51		07/24/50	
West Sacramento	01/01/1987	08/16/89	04/05/89		08/09/89		08/02/89	
Winters	02/09/1898	11/29/50	08/20/74		12/05/50		07/06/48	
Woodland	03/24/1874	06/16/49	09/05/72		12/04/50		07/06/48	
Yuba	02/18/1850	12/19/46	05/25/71	07/21/92	03/05/51		10/07/46	
Marysville	02/05/1851	11/29/50	07/07/71		03/05/51		08/15/50	
Wheatland	04/12/1874	11/29/50	07/06/71		04/02/51		08/21/50	

58 Counties
481 Cities
539 TOTAL

State of California
Planning Best Practices for County Emergency Plans

First Edition

November 2021

Gavin Newsom
Governor

Mark S. Ghilarducci
Director
California Governor's Office of Emergency Services

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

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Introduction

Background

On September 29, 2020, Governor Gavin Newsom signed AB-2968 – County Emergency Plans: Best Practices (Rodriguez) into California law. This amendment to California Government Code section 8593.9 requires Cal OES to develop best practices for counties developing and updating a county emergency plan, by January 1, 2022. This document aims to meet the requirements of that law.

The Emergency Plan Definition

An emergency plan is a document that defines the scope of preparedness and emergency management activities necessary for that jurisdiction to effectively respond to a large-scale incident or disaster. The government at each jurisdiction is responsible for ensuring that necessary and appropriate actions are taken to protect people, property, and the environment from the consequences of emergencies and disasters. An emergency plan formalizes how resources are to be used in diverse scenarios and which courses of action should be taken so that the community has a plan for several types of response operations.

Legal Requirements for an Emergency Plan

Government Code section 8610 of the Emergency Services Act (ESA) permits cities and counties to form Local Disaster Councils (LDCs). If established, these councils are required to approve the development of emergency plans and send a copy of these plans to the State Office of Emergency Services.

Pursuant to Government Code section 8593.9, the California Governor's Office of Emergency Services (CalOES) is required to review ten (10) county emergency plans each year and confirm:

1. Whether the plan is consistent with Cal OES' proposed best practices.
2. Whether the plan protects and accommodates vulnerable populations during natural disasters.
3. Whether the plan has established procedures for alerting, evacuating, and sheltering individuals during an emergency.
4. Any other necessary and appropriate element, as determined by Cal OES.

An emergency plan is the base plan for the response operations that occur in a county. Emergency plans describing response operations may also be called:

- Comprehensive Emergency Management Plan (CEMP)
- Emergency Operations Plan (EOP)
- Facility Emergency Response Plan
- General Plan – Safety Element
- County Emergency Management Plan (EMP)

Assembly Bill 2311 (Brown, Chapter 520, 2016), which added California Government Code section 8593.3, requires each county and city to integrate access and functional needs upon the next update to its emergency response plan. Assembly Bill 477 (Cervantes, Chapter 218, 2019), further amends California Government Code section 8593.3, requiring each county and city to include representatives from access and functional needs populations in the next regular update to its emergency plan. Specifically, jurisdictions must include internal and external stakeholders throughout each phase of the emergency planning process in:

- Emergency communications
- Emergency evacuations
- Emergency sheltering.

Links to additional information on this legislation can be found in Attachment B – Authorities and References.

The Definition of "Best Practice"

Best practices for county emergency plans are methods or techniques which have generally been accepted by diverse groups of professionals and practitioners well-versed in emergency management as superior to any alternatives because it produces results that are prescribed as being correct or most effective or has become a standard way of doing things. Following the Camp Fire in 2018, experts agreed that there is a need to socialize best practices from those agencies that respond to major incidents with other public safety and emergency management agencies so that other jurisdictions may benefit from their expertise and best practices can become better known. [1]

Methodology for Identifying Best Practices

Cal OES performed a comprehensive review of over 50 After Action Reports (AARs) from emergency incidents and disasters between 1964 and 2021. From this research, best practices were culled from fifty-one incident AARs and have been categorized as examples of best practices for county emergency plans.

Additionally, whole community best practices were obtained during collaborative discussions, facilitated through the Listos California program, which occurred between members of the community, Community-Based Organizations (CBOs), and emergency managers from sample cities and counties in 2020. These twenty-three listening sessions provided innovative ideas and solutions for topics which have presented challenges to emergency managers in several recent disasters.

Finally, a Specialist Committee was formed through the Standardized Emergency Management System (SEMS) Maintenance System to represent the diverse group of professionals, practitioners, and representatives of specific communities who reviewed all suggested best practices and endorsed the most appropriate for county emergency plans in California.

In compliance with California Government Code section 8588.15, Cal OES collaborated with thirteen state agencies/departments and multiple access and functional needs stakeholder groups to seek participation and representation from whole community partners to select individuals with Access and Functional Needs as representatives to SEMS Specialist Committees, work groups, and sub committees. After the nominations were collected, a collaborative review team was developed to screen each of the nominations submitted and assigned at least three individuals representing a broad variety of disabilities, and access or functional needs (including physical, sensory, intellectual, and developmental disabilities) to each of the SEMS Committees.

The Whole Community Planning Group (WCPG) SEMS Specialist Committee includes representation from the disability community, as well as representatives from Cal OES and each Mutual Aid Regional Advisory Committee (MARAC). Additional information about the WCPG SEMS Specialist Committee can be found in the committee's charter.

The following table shows a breakdown of best practices in Attachment E – Best Practices Planning Checklists by core capability:

Core Capability	# of Elements Best Practice	# of Sub-elements	# Total Best Practices
Planning	8	23	31
Public Information and Warning	5	19	24
Operational Coordination	6	22	28
Critical Transportation	2	6	8
Fatality Management	1	1	2
Infrastructure Systems	2	2	4
Logistics and Supply Chain Management	6	24	30
Mass Care Services	4	10	14
Public Health, Healthcare, and Emergency Services	2	1	3
Operational Communications	4	6	10
Situational Assessment	4	8	12
Total	**44**	**122**	**166**

Attachment D – Explanation of Core Capabilities shows the Federal Emergency Management Agency's (FEMA's) response mission area Core Capabilities under which each best practice is categorized. In accordance with the National Preparedness Goal, county emergency managers and planners should build resilience into each core capability to respond quickly to save lives, protect property and the environment, and meet basic human needs in the aftermath of a catastrophic incident. This list of best practices is a good foundation for building resilience.

Maintenance of This Document

This planning best practices document is considered a living document and the SEMS Whole Community Specialist Committee should continue updating and amending it after each significant incident, AAR, the discovery of best practices, or reviewed annually for feedback.

Additional Best Practices

Planning best practices on topics such as Extreme Temperature (hot/cold) planning, power disruption planning, and building public preparedness can be found on Cal OES' Plans and Publications page Cal OES Planning and Preparedness Plans Publications and the Listos California webpage www.listoscalifornia.org

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Best Practice Examples for Planning

1.1 – The County has a current, approved base emergency plan

It is a California best practice for each county to have a current emergency plan for the county's response to emergencies and disasters. This plan should be capable of execution during both emergency and non-emergency situations, such as pre-planned special events, with inter-agency coordination.

In the aftermath of the 1964 Alaskan Earthquake, experts agreed that there must be an emergency plan to be prepared for a disaster. "This must be a flexible plan—one designed to meet various contingencies, either in peacetime or in war."[2] The scope of recent disasters has exceeded single jurisdictional boundaries, as such, participation of a county in regional and catastrophic planning is desirable and encouraged.[3]

The following figure depicts the standardized steps suggested for counties during the planning process. At each step, counties should consider the impact of their decisions on training, exercises, equipment, and other requirements. Although planning involves a consistent set of activities, the process is not strictly linear and includes iterative cycles of review and collaboration. Outputs from each step lead to greater understanding by the planning team and leadership of key issues and shape the contents of the plan.



Additional information on the steps in the planning process can be found in the Federal Emergency Management Agency's (FEMA's) CPG 101.

1.2 – The County Emergency Plan was created in collaboration with the Whole Community

It is a California best practice for the county emergency planning process to include a Whole Community Planning Team (WCPT). A WCPT is a comprehensive group of individuals who each represent different aspects of the whole community. This culturally diverse group brings experiences, community-based values, and customs that might not otherwise be known to emergency planners, resulting in a plan that is culturally competent and inclusive of all populations in the community.

1.2.1 – Detail the integration of communities' cultural competence

Cultural competence includes, but is not limited to, being respectful and responsive to the cultural and linguistic needs of diverse population groups, which are often most impact by – and traditionally least involved in – preparedness, response, and recovery efforts.

Per California Government Code section 8593.3, cultural competence means the ability to understand, value, communicate with, and effectively interact with people across cultures to ensure that the needs of all community members are addressed, with priority given to culturally diverse communities.

A culturally diverse community includes, but is not limited to, diversity in:

- race and ethnicity, including indigenous peoples, communities of color, and immigrant and refugee communities
- citizenship status
- gender, including diverse gender identities
- age, including older adults and children
- sexuality and gender identity
- people with access and functional needs
- income level (including individuals who are economically depressed or unhoused)
- education level
- people with no or limited English proficiency
- geographic location

1.2.2 – Detail the integration of communities with Access and Functional Needs

Individuals with access and functional needs (AFN) are at greater risk for negative outcomes before, during, and after disasters and it is imperative to include representative populations in the planning process. AFN is defined in Government Code section 8593.3 as individuals who have:

- Developmental, intellectual, or physical disabilities
- Chronic conditions or injuries
- Limited English proficiency or who are non-English speaking

Or individuals who are:

- Older adults, children, or pregnant
- Living in institutional settings
- Low-income, unhoused, and/or transportation disadvantaged

This legal definition is not all-inclusive. Comprehensive guidance on planning considerations for individuals with AFN can be found in the Cal OES Access and Functional Needs Library.

1.2.3 – Detail the integration of communities with intellectual, cognitive, and physical disabilities

Counties should work with local Community-Based Organizations (CBOs) or community partners, such as Voluntary Organizations Active in Disaster (VOAD), Independent Living Centers, Areas Agency on Aging, paratransit providers, and local agencies to ensure the county's emergency plans meet the needs of the whole community, including individuals with AFN.[4]

1.2.4 – Detail the integration of communities of older adults

Disasters of all kinds affect older adults disproportionately, especially those with chronic diseases, disabilities, or conditions that require extra assistance to leave an unsafe area and recover from an event. "Seniors, Senior Citizens, Geriatric, Elderly," these terms refer to people whose stage in life is generally called old age. People are said to be senior citizens when they reach the age of sixty or sixty-five because those are the ages at which most people retire from the workforce.[5] The Older Americans Act provides services to people beginning at age 55 years old.[6] The Centers for Disease Control and Prevention defines an "older adult" as someone who is at least 60 years old. Older adults may live in a variety of circumstances, from assisted or independent living in a group setting or independently in their own home.

It is a California best practice for counties to develop procedures for a variety of living arrangements for older adults and other residents with AFN, before an incident. This is particularly important regarding evacuation planning.[7]

When drinking water became contaminated in 2010, the City of Barstow set up a system with a call-in number with information on how to plan for water delivery. This form of communication can be effective for older adults, speakers with limited English proficiency (if the multi-language line is provided), or people who are deaf or hard of hearing if Teletypewriter (TTY), Video Relay Service (VRS), and Video Remote Interpreting (VRI) is enabled. Water was delivered by employees of the police department, fire personnel, and public works.[8]

1.2.5 – Detail the integration of transportation for disadvantaged communities
"Transportation disadvantaged" refers to anyone dependent on others for transportation, including those who rely on public transit or accessible vehicles.

To integrate their emergency transportation plans, to address the needs of individuals who are transportation disadvantaged or rely on specialized, accessible vehicles, it is a California best practice for counties to determine alternative methods to evacuate when public transport cannot perform evacuation functions due to the severity of the incident.[1] Local jurisdictions should leverage their existing disability and older adults service systems, such as In-Home Supportive Services, Meals-on-Wheels and Paratransit, and others to assist in the evacuation of individuals with access or functional needs. It is a best practice for counties to have Memorandums of Understanding (MOU) within, and outside, the jurisdiction to provide readily accessible transportation services to evacuate individuals with AFN. Additional information on evacuation transportation for individuals with AFN can be found here: CalOES Access and Functional Needs/Evacuation Transportation

In 2021, the California Department of Food and Agriculture (CDFA), in partnership with Cal OES, developed the *Best Practices for Allowing Pets on Public Transit* document. Counties should review these best practices when planning for pets during an evacuation. The document can be found here: Best Practices for Allowing Pets on Public Transit

1.2.6 – Detail the integration of underserved populations
Emergency planners cannot assume to understand all aspects of a community. Emergency managers must understand that individuals with access or functional needs and underserved populations are disproportionately affected by disasters. Having representation from underserved communities, representatives of various organizations that serve older adults, people with disabilities, and others with access or functional needs in emergency planning is key to resilience throughout the whole community.

To address inequity directly, San Francisco County established an Equity Group as part of their COVID-19 Command Center. Sonoma County appointed an Equity Officer to their COVID-19 response. This position lead inclusion efforts out of the County Administrator's Office and weighed in on all aspects of county government to ensure the Whole Community was involved.

1.2.7 – Detail the integration of unhoused communities

During a community meeting with Sonoma County residents, it was highlighted that individuals who are unhoused may have significant challenges in a disaster. These individuals may be moved to unfamiliar areas due to evacuations, which may result in the loss of safe locations which had been identified for basic survival.

Many people who are unhoused are also living with disabilities that present significant barriers to housing, health care, employment, and other services. Trauma may be much more severe for those without reliable shelter/housing. It is essential to provide trauma-informed care that is compassionate, non-judgmental, and focused on safety and healing.

Due to stigma, discrimination, mental health issues, and trauma, many people experiencing homelessness have had difficulty navigating systems of care. They may have been evicted, relapsed in drug treatment, or experienced other challenges which dissolved hope for a situation that can improve. Individuals who are unhoused may exhibit mistrust for government services.

Here is one resource that guides on how to integrate planning for people experiencing homelessness: National Health Care for Homeless Council, Emergency Preparedness

1.3 – Standard Best Practices are used as a tool to help develop County Emergency Plans

It is a California best practice for county emergency planners to reference leading national, federal, state, and industry standards when planning for disasters.

1.3.1 – Is the county's emergency plan consistent with FEMA's Comprehensive Preparedness Guide 101?

The Comprehensive Preparedness Guide (CPG) 101 shows how emergency operations plans connect to planning efforts in all five mission areas. Version 3.0 (September 2021) of this guide emphasizes the importance of including the private and nonprofit sectors in planning activities and incorporates lessons learned as well as a pertinent new doctrine, policy, and laws. CPG 101 (Version 3) can be found here: FEMA CPG 101 Volume III

1.3.2 – Does the county's emergency plan use any California best practices?

Cal OES' "Best Practices for Stakeholder Inclusion (June 2020)"
The purpose of this paper is to ensure emergency managers recognize, understand, and integrate whole community partners as they develop emergency plans. It can be found here: Access and Functional Needs Library

1.3.3 – Samples of industry standards and best practices that counties may consider when developing their plans

Emergency Management Accreditation Program (EMAP)
EMAP identifies industry standards for a voluntary accreditation process of local, state, federal, higher education, and tribal emergency management programs. The Emergency Management Standard can be found here: www.emap.org

National Fire Protection Association (NFPA 1600) Standard
This standard is dedicated to helping users prepare for any type of crisis or disaster resulting from natural, human, or technological events. Widely used by public, non-profit, non-governmental, and private entities on a local, regional, national, international, and global basis, NFPA 1600 continues to evolve as a vital standard for the development, implementation, assessment, and maintenance of disaster/emergency management and continuity of operations programs. NFPA 1600 can be found here:
www.catalog.nfpa.org

1.3.4 – Demonstrate that the county's emergency plan is consistent with Cal OES Emergency Operations Plan (EOP) Crosswalk

The EOP Crosswalk is the tool used by Cal OES to review emergency plans and determine whether they are sufficiently using the standards and best practices. The EOP Crosswalk can be requested by contacting CommunityPlanning@CalOES.ca.gov.

1.4 – The County conducted a Hazard Vulnerability Analysis and included results in the emergency plan

1.4.1 – Identify Hazards/Threats which could potentially impact the county

The National Risk Index, hosted by the Federal Emergency Management Agency (FEMA), is an online tool to help illustrate the nation's communities most at risk of natural hazards. It leverages the best available source data to provide a holistic view of community-level risk nationwide by combining multiple hazards with socioeconomic and factors of the developed environment.

The index calculates a baseline relative risk measurement for each United States county and census tract for 18 natural hazards, based on Expected Annual Loss, Social Vulnerability, and Community Resilience. Additional information about the Index can be found here: www.FEMA.gov

Attachment C – List of Hazards/Threats provides a minimum accounting of the hazards and threats for which each county should consider planning. Although this is a base consideration list, it is recognized that not all of these apply to all jurisdictions. Some jurisdictions include these hazard and threat plans as an annex to their base response operations plan, and some generate separate

standalone action or contingency plans for high-frequency risks. Additionally, some jurisdictions reference their FEMA-approved Multi-Hazard Mitigation Plan Risk Assessment and/or their locally approve Climate Change Vulnerability Assessments rather than recreate this analysis.

1.4.2 – Detail the county's highest estimated risks and impacts

During the 2014 drought, Glenn County identified the need to have an action plan included as part of their county EOP.[9] It is a California best practice to define high-risk hazard areas in emergency plans.[7]

There are multiple instances where local planners are asked to conduct some form of HVA, including the creation of an EOP, Continuity of Operations (COOP) plan, Continuity of Government (COG) plan, General Plan Safety Element, Climate Change Vulnerability Assessment, and Local Hazard Mitigation Plan (HMP). A jurisdiction's HVAs must be standardized across various plan types to ensure consistency in effort.

The purpose of completing a Hazard Vulnerability Analysis (HVA) before creating or updating an emergency plan is to identify all the most relevant hazards/threats which a particular community could and will experience, as well as their corresponding likely expected impacts. This analysis creates a solid foundation upon which response operations planning can be built.

A best practice HVA utilizes current and historical data to identify the estimated level of risk for each type of hazards/threats, broken down into categories such as:

- Probability – Frequency of occurrence
- Impact – Physical, economic, social, environmental, infrastructure, political, cyber, etc.
- Spatial Extent – Geographic expanse of the specific threat/hazard
- Warning Time – Amount of notice *before* impact
- Duration – Length of time for response operations as well as recovery operations

The following is a sample HVA summary:

HAZARD NATURAL(N) OR MAN-MADE(M)	RISK ASSESSMENT CATEGORY					RISK FACTOR (RF)
	PROBABILITY	IMPACT	SPATIAL EXTENT	WARNING TIME	DURATION	
Flood, Flash Flood, Ice Jam (N)	4	3	3	4	3	3.4
Winter Storm (N)	4	2	4	2	3	3.1
Utility Interruption (M)	4	2	2	4	2	2.8
Hurricane, Tropical Storm, Nor'easter (N)	2	3	3	1	4	2.8
Cyber-terrorism (M)	2	3	2	4	2	2.5
EH - Hazardous Materials Release (M)	4	2	1	3	2	2.5
Dam Failure (M)	1	3	2	4	4	2.4
Nuclear Incident (M)	1	3	2	4	4	2.4
Transportation Accident (M)	4	1	2	4	1	2.4
Wildfire (N)	4	1	2	3	2	2.4
Extreme Temperature (N)	4	1	2	1	3	2.3
Coastal Erosion (N)	4	1	1	1	4	2.2

Other forms of HVAs may include:

- Risk Assessment
- Hazard Identification and Risk Assessment (HIRA)
- Threat and Hazard Identification and Risk Assessment (THIRA)
    - Comprehensive Preparedness Guide (CPG) 201
        - CPG 201 can be found here: CPG 201
- Other gap analyses

1.5 – The County identifies how the emergency plan intersects with other emergency plans in the County

FEMA's CPG 101 states that "planners achieve unity of purpose by coordinating and integrating plans across all levels of government, nonprofit organizations, the private sector, and individuals and families." This coordination supports the fundamental principle that, in many situations, emergency management and homeland security operations start locally and expand to include other government and private sector resources as the affected jurisdiction requires additional support.

Plans should communicate horizontally and vertically among levels of government to confirm a common operational focus. The emergency plan should synchronize with other operational plans, contingency plans, or threat/hazard-specific plans.

Emergency plans should foster horizontal communication throughout the county to help inform individual department and agency EOPs, as well as EOPs for the private sector and mutual aid partners. This helps stakeholders fit into the

jurisdiction's plans and helps each organization understand, accept, and prepare to execute its roles and responsibilities.

For example, the 2012 Baja Earthquake AAR identified that the Offices of Education and the school districts need to have disaster plans or procedures to respond to a disaster effectively and appropriately.[4] This requires collaboration with the county Office of Emergency Services (OES) to ensure consistency with the county's emergency plans.

Counties can facilitate collaborative planning processes to support the alignment of plans within counties. These may include related roles & responsibilities, similar workflows, and common actions. By identifying correlations between plans, planners can de-conflict overly redundant or duplicitous actions. This can streamline response operations and prevent the inadvertent misallocation of critical personnel hours.

Additional information on the integration of plans can be found here: www.fema.gov

1.5.1 – Detail intersection with General Plan

California Government Code section 65300 requires every county to adopt a comprehensive, long-term general plan for the physical development of that jurisdiction. The general plan is the jurisdiction's blueprint of the future. It expresses community goals and embodies public policy that is the basis for all land-use decisions.

The goal of the safety element within the General Plan is to reduce the potential short and long-term risk of death, injuries, property damage, and economic and social dislocation resulting from fires, floods, droughts, earthquakes, landslides, climate change, and other hazards. Other locally relevant safety issues, such as airport land use, emergency response, hazardous materials spills, and crime reduction, may also be included. Some local jurisdictions have chosen to incorporate their emergency management plans into their safety elements.

Additional information regarding General Plans and Safety Elements can be found at the Governor's Office of Planning and Research (OPR) here: www.opr.ca.gov

1.5.2 – Detail intersection with Hazard Mitigation Plan

Hazard mitigation planning reduces loss of life and property by minimizing the impact of disasters. Cal OES assists counties in the development of Local Hazard Mitigation Plans (LHMPs) and provides technical assistance, training, and outreach to local jurisdictions. Cal OES reviews all LHMPs in accordance with the Federal Disaster Mitigation Act of 2000 (DMA 2000), Title 44 Code of Federal

Regulations Section 201.6, and FEMA Guidelines and coordinates with local jurisdictions throughout the process. Once Cal OES planning staff find the LHMP to be "approvable," the plan is forwarded to FEMA Region IX mitigation planning staff for review and approval.

One AAR suggests: As part of the LHMP process, counties should work with water agencies to pre-identify ownership of all flood control infrastructure (including culverts, flap valves, ditches, and levees) and share accumulated data amongst all flood response agencies.[10]

It is a California best practice for counties to pre-identify mitigation strategies that can better protect critical facilities and infrastructure from their hazard risk, and act upon them.[10] Additional information on LHMP planning can be found here: CalOES Local Hazard Mitigation Program

1.5.3 – Detail intersection with Disaster Recovery Plan

An interdepartmental committee may be utilized to coordinate the development of the recovery plan. It should include resource lists for contacts with agencies that will be involved in recovery activities, such as Small Business Administration, Office of Education, Cal OES, etc.[4] Consider appointing a Recovery Unit Leader early in the incident. Identify and staff additional dedicated positions to support recovery operations, ensuring there is adequate staffing in the Emergency Operations Center (EOC) for financial document processing and collection.[11]

The county should also consider adding a Recovery Section to the EOC, as well as developing public/private sector training which utilizes Chambers of Commerce and Property Business Improvement District (PBID) within their county to educate members about Community-Based Organizations (CBOs) and private entities, and how they fit into the response and recovery space during an emergency.[4] Establish a recovery planning unit within the planning section of the EOC to think ahead and assess the impacts, anticipate requirements, and do early planning for recovery.[12]

Pre-disaster planning for recovery ensures that a county is ready to undertake an organized process toward restoration and does not miss opportunities to rebuild in a sustainable, resilient way. If counties have not already created a separate plan for recovery operations, they should consider developing a Recovery Annex to their emergency plan to assist with coordinating and/or tracking recovery activities as they occur.

Counties should consider establishing a Volunteer Coordinator position. Counties can create an organizational element parallel to the EOC as a part of a Recovery Support Function (RSF) to manage and use voluntary resources.[13]

Counties should provide advanced training to personnel identified to serve as a Recovery Unit Leader.[11] Establish a multi-disciplined recovery team representing affected county departments.[14] Pre-assign staff and establish procedures for the critical task of tracking resources and costs. Proper documentation is necessary to establish eligibility for available recovery grant funding and cost recovery.[7]

The county's recovery plan or annex should establish protocols for recovery operations.[4] It should include a pre-disaster cost recovery plan and a debris management plan. Collaboration with stakeholders across the county to pre-identify debris management sites is a preferred technique. Hold a joint workshop with Finance and Logistics personnel on emergency procurement, purchasing, resource ordering, and tracking, and personnel and equipment timekeeping.[11]

Additional information on the response nexus to recovery is in FEMA's *Pre-Disaster Recovery Planning Guide for Local Governments* (February 2017), which can be found here: FEMA Pre-Disaster Recovery Planning Guide for Local Governments

1.5.4 – Detail intersection with Cybersecurity Plan

The California Cyber Security Integration Center (Cal-CSIC) is the State's information clearinghouse for cybersecurity information and has developed the California Joint Cyber Incident Response Guide to assist in planning for cybersecurity.

The guide aims to develop an understanding of how counties can react to an incident, depending on the organization's mission and the mission-critical systems required to meet the organization's business objectives in the threat environment. The guide is designed to assist governmental and non-governmental entities within California, including State, Local, Tribal, Territorial and Private Sector.

Each county should also regularly review its critical business systems and applications. The reviews are typically conducted annually to ensure applications and systems are still relevant for business operations.

Cal-CSIC Cybersecurity guidance can be found here: California Cybersecurity Integration Center

Additional information on the security of public safety communications can be found here: CSIC Cybersecurity Guidance

1.6 – County-identified roles & responsibilities of Advance Planning

An Advance Plan provides decision-makers with critical details needed to identify the potential mid-to-long range social, economic, environmental, infrastructure, and political impacts of an incident. The Advance Plan highlights forecasted events or conditions likely to occur in future operations, particularly those situations which may influence the overall strategic objectives of the Emergency Operations Center.

SEMS lists an "Advance Planning Unit" under the Planning and Intelligence Section. This was successfully demonstrated during the 2011 Severe March storms where Advance Planning was highlighted as a successful operation.[15]

Following the 2003 Southern California Fires, experts agreed that there was a need to strengthen the advance planning process in the Planning and Intelligence function at all levels. They suggested that training stresses the importance and practical implications of items identified during the advance planning process. There's also a need to identify methods for following up on advance planning issues and conduct additional training on advance planning.[16]

A dedicated Advance Planning Unit within the Planning and Intelligence Section of the EOC should be outlined in the County EOP as an option during large-scale disasters to ensure long-term planning issues, including the transition to recovery, are properly addressed during future disasters. This Advance Planning Unit should develop objectives related to long-term planning as part of operational period EOC Action Plans (EAP)[1]

Planning for the extreme weather event proved to be extremely valuable and provided incident management personnel and additional firefighting resources for the initial attack during the 2007 Orange County Santiago Fire.[17]

1.7 – Counties should have a Continuity of Operations plan

It is a California best practice for counties to have a current Continuity of Operations Plan (COOP). This may be as an annex to the emergency plan or as a standalone document.[14] A COOP plan is created to ensure that counties and their partner agencies can continue the performance of essential functions under a broad range of circumstances, including sudden disruptions in technology, facilities, and staff.

1.7.1 – Detail COOP roles & responsibilities

It is a California best practice for counties to identify and designate specific staff with knowledge, skills, and abilities to serve as COOP leads or COOP Manager. Evaluate and refine tiered Mission Essential Functions (MEFs) to understand which

functions can be put on hold to free up personnel to serve in the COOP group, EOC, or fill other positions.[18]

1.7.2 – Detail program for continuity of personnel

Experts suggest setting up COOP response teams and identifying the various lines of succession for each position. A COOP plan should attempt to develop a line of succession with at least three people deep for all positions which may be involved in disaster response or recovery activities. Those individuals who are included in the line of succession should have the authority to take charge in case of an emergency and have the authority to make decisions for their agency when assuming that role.[4]

COOP plans should first and foremost include procedures for the rapid evacuation and relocation of critical emergency services facilities such as emergency communications centers (e.g., 911 and dispatch) and the EOC.

1.7.3 - Detail program for continuity of facilities

During Hurricane Hugo in 1989, the Charleston, South Carolina EOC had to be evacuated during the height of the storm due to the roof being torn off by the wind. Evacuation also included an estimated 150 media personnel.[19] Early reports indicated that this move meant a loss of all communication to the city's EOC. Counties should consider the following while planning for EOC evacuations:

- What is the impact on the response?
- How do we get operational again?
- How long will it take?
- What problems could we encounter and how can we deal with them?[19]

At one point during the 1986 floods, there was danger of inundation at the State Operations Center. Cal OES was prepared to move the staff, but not the communications and other equipment, nor the other resources essential for operations. Butte County demonstrated very effective and seamless continuity of operations when they had to relocate their EOC, jail, and law and fire dispatch centers as part of the overall evacuation process during the Oroville Spillway incident.[20]

1.7.4 – Detail a program for testing, training, and exercising the COOP plan

It is essential to train, test, and exercise staff on the COOP plan regularly. During the 1989 floods, the Southern California Earthquake Preparedness Program had to be evacuated due to asbestos contamination. They had just completed their first operational recovery plan, identifying critical items (by position) to remove from the facility in case of an emergency evacuation. The plan also identified who was responsible for removing each specific item. Since this plan was so new, they had not yet trained staff nor tested the plan.[19]

1.8 – County has a regular update cycle for the emergency plan

1.8.1 – Detail the maintenance cycle for the county's emergency plan

CPG 101 (Version 3) states that some jurisdictions have found it useful to review and revise portions of their EOPs every month, while others accomplish their reviews annually. Teams should consider reviewing and updating the plan after the following events:

- A major incident
- A change in operational resources (e.g., policy, personnel, organizational structures, management processes, facilities, equipment)
- A formal update of planning guidance or standards
- A change in elected officials
- Each time the plan is used
- Major exercises
- Changes in the jurisdiction's demographics, hazard profile, or infrastructures
- Changes in the jurisdiction's tolerance of identified risks
- The enactment of new or amended laws or ordinances

It is a California best practice for the county's emergency plan to be reviewed and updated regularly. Regardless of the update cycle implemented, it is incumbent upon emergency planners and emergency managers to consider the plan a "living document" that can and should be reviewed and updated routinely with a periodic comprehensive review.

1.8.2 – Detail the program for testing, training, and exercising the county's emergency plan

Even the best emergency plan will face challenges if those executing it are not adequately trained. Dozens of AARs listed the need to enhance SEMS training at all levels of government. "There must be an emergency plan to be prepared for a disaster. There must [also] be trained people—who know what their responsibilities are, and where to go and what to do when disaster strikes."[2]

Following the 2015 Aliso Canyon Gas Leak, after-action reports recommended that local jurisdictions exercise their emergency plan with relevant stakeholders (e.g., utility emergency response personnel). This is most successful when conducted *before* emergencies to enhance the ability to coordinate during an emergency response.[21] Counties should also include a regular schedule for testing equipment in their preparedness plans and abide by that schedule.[22]

It is important to integrate the whole community into disaster drills, as well as training and exercise scenarios, to identify and resolve gaps before an incident. This could include utilizing paratransit partners and other accessible vehicle providers during an evacuation scenario. This practice is best accomplished by

involving the WCPT during the exercise development and AAR processes to provide inclusive/integrated services to all community members in an exercise.

Best Practice Examples for Public Information and Warning

2.1 – County has a current, approved Public Information Plan

Following the 2015 Refugio Oil Spill, experts suggested that counties develop community engagement protocols and procedures for community outreach to facilitate more effective and immediate results.[23] These protocols should be culturally competent and accessible to the whole community.

2.1.1 – Detail the county's community communications and engagement strategy

It is a California best practice for counties to develop a robust public education campaign and communications strategy. This can be done as crisis communications, external communications, Joint Information System (JIS) annex, or as a standalone plan.[14]

The strategy should document the use of redundant information with a plan to ensure the widest reach in public information efforts.[1] The plan should identify how the whole community benefits and receives information regarding critical incident information such as evacuation and re-entry.

The 2017 Orange County Water Interruption AAR identified that a central location for information on the incident, such as a disaster information website or a single social media channel, was not identified.[24] It is a California best practice for county emergency plans to detail the communications paths with community-based organizations, community leaders, and business and industry stakeholders during large emergencies.

2.1.2 – Detail the county's Public Information Office roles & responsibilities

A Public Information Office (PIO) is designated by a public authority to create and enable clear, accessible, and concise communication between government agencies, news media outlets, and the general public. EOC staff should be focused on the integration of the PIO function into EOC operations and how to manage internal EOC communications about public messaging.[18]

The 1991 East Bay Hills Fire indicated the need for comprehensive public information and warning. Experts suggested that a trained PIO be immediately dispatched to any major incident and that public information be a high priority.[13]

PIOs need clarified roles, responsibilities, and conformity to SEMS.[25] PIOs need to communicate critical information so individuals and families may make important time-based decisions about their safety and well-being. Quality public

communications provide people with enough information that the behavioral actions needed by a population take place rapidly. PIO skill sets range from developing strong relationships with media outlets and partner agencies providing information dissemination to creating content for video, audio, and social media for consumption directly by the public.[4]

2.1.3 – Detail the county's use of a Joint Information System, if applicable

Experts suggest including a team of PIOs in the emergency response plan for every county. Counties are strongly encouraged to identify PIO resources capable of fulfilling the following functions: Information Gathering; Information Dissemination; Media Monitoring; VIP Engagement; and Public Meetings and Forums. "Part of the initial dispatch of resources to any major incident should automatically be a trained PIO Team or Joint Information Center (JIC). The quicker a PIO Team can get to a scene and set up operations, the better the information effort will be. A 25–30-person trained PIO Team should be in the plan for every city and county [depending on the size, complexity, and resource capabilities of the jurisdiction]. JIC members will typically work in the field, at the EOC, the Unified Command Post (UCP), phone banks, and in dispatch, answering media and public inquiries."[13]

It is a California best practice for counties to consider using the (JIS) concept. Expanding the number of trained PIOs, cross-training other staff to support PIOs, and including PIOs from other county departments on the JIC team could help fill a variety of necessary public information roles. Identify additional staff that is not currently assigned as PIOs throughout the county organization who have skill sets that can assist and augment the PIO team staffing needs.[26]

Multilingual PIOs or translators are needed to provide information to the large number of individuals who speak English as a second language.[4] The executive level should be trained to act as a PIO during emergencies. Additional county staff should attend PIO training. It is also suggested that each county should train someone to be a bilingual PIO.

Jurisdictions also benefit greatly by having trained PIO staff.[18] However, not all incidents directly impact all counties. Trained PIOs who are not impacted by a disaster could potentially be made available to assist with other incident types, depending on leadership approval.[4]

It is also a California best practice to establish a county-wide PIO working group to discuss issues and develop strategies in advance of an incident, and to improve coordination with cities, special districts, and tribal nations.[18]

2.1.4 – Detail the county's Joint Information Center roles & responsibilities

The National Wildfire Coordinating Group (NWCG) describes a JIC as the central point of contact for PIOs and news media to coordinate incident information activities at the scene of the incident. Public information officials from all participating federal, state, and local agencies should co-locate at the JIC.

During the 2015 Aliso Canyon Gas Leak, a JIC was established that included both private and public agencies. The challenge was maintaining and conveying unified messaging amongst the stakeholders and the public. The JIC's PIOs worked together to distribute a timely, coordinated, and uniform message to the public and media to meet the challenge.[21]

Another challenge that a JIC can address is developing procedures with law enforcement to manage dignitaries' tours of disaster sites without disturbing lifesaving work. Counties should establish procedures to respond to requests for tours and visits by politicians, researchers, and foreign visitors following a disaster.[27]

2.1.5 – Detail the county's JIC location and pre-identified equipment needs

Experts agreed after the 1991 East Bay Hills Fire that counties should equip a JIC, complete with staff, phones, computers, and ham radio operators.[13] This can be a physical (fixed or mobile) and/or a virtual (telework) site.

A 2017 incident in Orange County illustrated the challenges of selecting an impromptu space for the JIC. The chosen location did not have enough room and was not set up for operations, press briefings, or parking.[24]

Counties should consider constructing or reserving a dedicated space for the JIC, co-located with the EOC, to fit the following parameters:

- Support up to 20 workstations (or other proportionate)
- Provide 2 computer monitors per workstation to view multiple social media channels and be able to craft messaging
- Install large monitors on walls that can display information (static and dynamic), social media feeds, etc.
- Provide whiteboards and breakout meeting spaces
- Provide space and technology for media briefings
- Provide studio space to produce in-house video content and streaming content[18]

Counties should consider the need for additional space during larger incidents when the JIC needs to be expanded to meet the increased workload, but the physical workspace is rendered insufficient. This should be exceptional, not routine. Expanding the amount of space dedicated to the PIO team should be coupled with reconfiguring the team distribution and using the additional space

for larger staffing requirements for media and social media monitoring and supporting the field PIOs when they are not in the field.[18]

Expansion space could be achieved through a portable office trailer delivered to the EOC or through the reuse of other county office spaces as a more distant satellite location. In either case, workflow, process, and guidelines will be needed whenever the baseline configuration must be changed.[18]

2.1.6 – Detail the county's use of the Joint Information System, if applicable

A Joint Information System/Joint Information Center plan should be developed and exercised to ensure a coordinated public information release process for future complex incidents.[24]

Counties can refine the JIS concept and develop a JIS plan with a charter to address authorities, roles, responsibilities, a concept of operations describing how to work with partners, share information, and how to integrate JICs into other JICs. Examine various models and practice communication protocols to determine the best fit for the county.[18]

2.2 – County Public Information Plan was created in collaboration with the Whole Community

2.2.1 – Detail the county's collaboration with the Whole Community Planning Team

It is a California best practice for counties to identify inclusive representation for the Whole Community Planning Team (WCPT). This could include CBOs (such as Independent Living Centers, Regional Centers, or Meals on Wheels) and community leaders to amplify messaging.

Accessibility, plain language, multiple languages, pictures, and pictorial symbology are necessary for any public information campaign. The PIO plan should include a process for the development of communications messages which address the appropriate use of social media and other outlets for situational awareness and identify trusted sources of information. This includes pre-incident public education and messaging to community partners who serve individuals with access or functional needs (e.g., regional centers, independent living centers, deaf and hard of hearing centers, family resource centers, senior centers, etc.) emergency shelters, and other mass care sites.[26]

2.2.2 – Detail county's workflow for providing accessible, two-way social media communications with the public

Social media has proven to be valuable during disaster response and recovery. Moreover, it is also being used for emergency preparedness planning. As emergency managers come to rely on social media platforms like Twitter,

Facebook, and Instagram, it is important to understand the accessibility constraints of each tool. Live video features through Social Media may not provide information in accessible formats (ASL and captioning) for individuals who are deaf or hard-of-hearing.

To ensure social media-based emergency communications meet accessibility standards, consider the following:

- Can posts/messages be read by screen readers?
- Is all information contained in pictures also included in the body of the post?
- Is the social media website Section 508 compliant?
- Can videos posted through social media outlets be automatically or manually captioned?
- Can scripts be posted to make video content accessible?
- Is information being distributed and posted in multiple formats and platforms to reach the widest audience and ensure accessibility of information (Twitter, Facebook, Instagram, LinkedIn, YouTube, Nextdoor, etc.)
- Is the information being transmitted through the emergency notification system?

The importance of social media cannot be overstated, before, during, and after a disaster.[7] Following the 2014 Fire Season, El Dorado County identified the need to integrate social media into the county's EOC to ensure accurate and timely communications on which the public can rely for critical information during incidents.[28]

It is a California best practice to take advantage of social media platforms including Facebook, Twitter, and Periscope, among others.[10] A JIC can support social media monitoring. Counties should include captions in all pre-recorded material including videos posted on the internet and social media to ensure that materials are usable for a wide variety of individuals with access or functional needs.

According to the AAR, social media messages from all supporting agencies were not coordinated during the 2017 Orange County Water Interruption incident, thereby undermining all of the messaging.[24] During the March storms of 2011, public information contributed most to the protection of the community during the severe weather event. Several counties used public information phone lines and social media such as Twitter and Facebook to disseminate necessary emergency updates to the community.[15]

2.3 – County has a current, approved Alert and Warning Plan

It is a California best practice for county emergency plans to include an annex for public alert & warning and/or refer to a more comprehensive Alert and Warning Plan. Comprehensive best practices for alert and warning can be found here: California Alert and Warning Guidelines

2.3.1. – Demonstrate that plan is consistent with California Standard Statewide Evacuation Terminology

On May 15, 2020, California adopted common terminology around wildfire evacuations. "Evacuation Warning" and "Evacuation Order" were selected to help clarify and reduce potential public delays in action due to a misunderstanding of terminology.

- Evacuation Order: Immediate threat to life. This is a lawful order to leave now. The area is lawfully closed to public access.
- Evacuation Warning: Potential threat to life and/or property. Those who require additional time to evacuate, and those with pets and livestock should leave now.
- Sheller in Place: Go indoors, shut and lock doors and windows. Prepare to self-sustain until further notice and/or contacted by emergency personnel for additional direction
- Evacuation Order(s) Lifted: The formal announcement of lifting evacuations in an area currently under evacuation.
- Hard Closure: Closed to all traffic except Fire and Law Enforcement.
- Soft Closure: Closed to all traffic except Fire, Law Enforcement, and Critical Incident resources (i.e., utilities, departments of transportation, etc. or those needed to repair or restore infrastructure)
- Resident only Closure: Soft closure with the additional allowance of residents and local government agencies assisting with response and recovery

Additional information on standardized language for evacuations can be found here: www.calalerts.org/evacuations

Adoption of this terminology has not been consistent across all counties and their agencies. Some residents lack a basic understanding of what response actions need to be taken under each definition.[29]

2.3.2 – Detail the county's public notification systems

Understanding the sensory perception considerations around emergency announcements is important. Sensory perception is the process of becoming aware of something through the senses like sound, hearing, vision, and touch. Communication should include methods such as sound (loudspeakers, sirens, bullhorns, knocking) and visual aids (flashlights, flashing lights, picture signs,

notes, signs, etc.) so that people who are blind or have low-vision or who are deaf or hard of hearing get needed information.

It is a California best practice for counties to establish detailed procedures for coordinating the delivery of alert and warning messages between multiple platforms. The plan should include how counties train alert operators and personnel in dispatch centers and EOCs to activate emergency alert systems. The plan should establish a regular documented refresher training program for alert authorizers and alert operators and specify the use of Wireless Emergency Alert (WEA) and establish procedures.[7]

2.3.3 – Detail the county's program for residents, visitors, and other stakeholders to sign up for emergency alerts

After the 2007 Santiago Fire, Orange County coordinated the development and implementation of a public notification system. Following the Freeway Complex Fire, the City of Yorba Linda began implementing an alert and notification program.[30]

It is important to offer emergency preparedness guidance and literature, as well as critical information dispersed during disasters, in multiple languages. This information needs to be understood, consumable, and actionable by the whole community, including California's wide variety of Limited English Proficiency (LEP) communities.

Signing Up for Alerts

In Tehama County, the Corning Community Foundation uses paper forms in multiple languages to help residents sign up for emergency alerts. They then submit those paper forms to the Sheriff's Office to be entered into the computer.

Emergency managers in Madera County have signed individuals up for alerting with a laptop in real-time and have paper forms for non-tech savvy community members to sign up for alerts. By signing up as many people as possible, the county's focus is on getting alerts and warnings to the public early, so that people who need to evacuate early do so.

2.4 – County Alert and Warning plan was created in collaboration with the Whole Community

Emergency notification systems must be accessible and capable of reaching a diverse population of individuals to effectively relay information regarding any prolonged outage, threat, or hazard, as appropriate. The delivery should remain coordinated, prompt, reliable, and contain actionable information for the whole community using clear, consistent, accessible, culturally, and linguistically appropriate methods.

2.4.1 – Detail the integration of communities with Access and Functional Needs into the Alert and Warning plan

Notification of public warning (Red Flag Warning, evacuations, shelter in place, etc.) should be done through multiple trusted sources such as the official Emergency Notification Systems, website, radio, social media, and community partners. The 2015 Refugio Oil Spill reiterated the need to ensure that communication with people with AFN is equally as effective as communication with people without AFN.[23]

Comprehensive guidance on planning considerations for individuals with access or functional needs can be found in the Cal OES AFN Library: Access and Functional Needs Library

Some examples include:

- Integrate/use American Sign Language (ASL) interpreters at all emergency-related press conferences, town halls, and events
- Provide materials in multiple languages
- Ensure electronically posted info meets 508 compliance standards

2.4.2 – Detail the integration of communities' cultural competence into the Alert and Warning plan

Equitable access to information is user-centered, barrier-free, and format-independent. This is a critical gap for counties to address when socializing information with the public. For example, when targeting alerts to individuals who rely on In-Home Support Services (IHSS), San Bernardino community members indicated that critical disaster messages need to be shared equally with individuals and their IHSS caregivers

Preparedness Materials

Preparedness materials and programs need to be offered in multiple languages and methodologies to ensure the messages are communicated with the whole community.[24]

Interpreters

The Cal OES Office of Access and Functional Needs (OAFN), in conjunction with the California Specialized Training Institute (CSTI), conduct Disaster Response Interpreter (DRI) training throughout California. This program trains and credentials qualified American Sign Language (ASL) interpreters to provide services at press briefings, shelters, town halls, etc. before, during, and after disasters. Participants undergo rigorous training, Department of Justice background check, and receive a Disaster Response Interpreter (DRI) credential upon completion. The DRI program ensures that trained, qualified, credentialed, and screened ASL interpreters are available to provide services before, during, and after an emergency and that emergency information is accessible to the whole community, including individuals who are deaf or hard of hearing.

Alameda County community members stated there needs to be an American Sign Language (ASL) interpreter in the frame whenever a person is speaking on camera, such as during press conferences. Individuals who are deaf or hard of hearing rely on close captioning and/or sign language interpreters in the camera shot when announcements are made. They also suggested that counties have a transcript ready in a format that is accessible to assistive technology (such as a screen reader) immediately following.

Language

Part of cultural competence is understanding the barriers which diverse communities often face, such as community members speaking/reading English as a Second Language (ESL) or as part of a Limited English Proficiency (LEP) community.

Any printed or broadcasted disaster-related information should be provided in multiple languages to accommodate those where English is not the primary language.[25] In response to the 2010 Barstow Contaminated Drinking Water incident, the San Bernardino County Department of Public Health issued public health advisories in both English and Spanish for those with limited English-speaking ability. It is important to be continuously aware and regularly advised of the various languages spoken and read throughout the county.

Community members in San Francisco reiterated the importance of all preparedness/disaster messages being socialized using appropriate cultural syntax. Solano County community members recalled using pictorial messaging as a way of removing miscommunications through language barriers when socializing important issues.

Discussions with several communities identified a lack of information about signing up to receive emergency alerts in languages other than English. Solano County community members suggested easy access to Language Translation

Services, especially for individuals who speak Pacific Islander languages. San Diego County community members asked that those services also include Swahili, Creole, Farsi, and ASL. San Diego County also utilizes a Partner Relay Network to help translate alerts through mass emergency landline systems and is working on building a cell phone system to do the same.

Trusted Source

Community members in Solano County indicated that some cultures experience a great deal of shame when asking for help during a crisis. Some communities may rely on community leaders as trusted partners. JICs collaborating with trusted community leaders has proven to enhance community resilience.

According to Sonoma County community members, some communities (i.e., some indigenous language communities) often trust their community leaders most. PIOs can utilize individuals already trusted in the community as effective messengers, instead of relying upon outside subject matter experts. This strategy demonstrates meaningful follow-up to a community after an issue has been resolved.

2.4.3 – Detail the integration of communities with intellectual, cognitive, and physical disabilities

Sensory Disabilities

It is a California best practice for counties to plan for the equal access of critical information to individuals who are deaf or hard of hearing or are blind or have low vision. This includes community members using American Sign Language (ASL), assistive technology, and communication resources.

Community members in both Shasta and Madera Counties suggested the use of audible devices, such as Hi-Lo sirens installed in law enforcement vehicles and loud outdoor horn alerts so that those hard of hearing can feel the vibrations and distinguish the difference in the sound between routine notifications and evacuation alerts.

Additionally, it was suggested that emergency apparatus can turn on their sirens and lights, shine spotlights through windows of homes, and ring doorbells to activate light alerts within the home of people who are deaf or hard of hearing. It should be noted that advocates recommend training first responders or emergency personal on tactile signing for use during an emergency evacuation.

Plain Language

It is a California best practice for county Alert and Warning plans to use "plain language" while messaging to the public. Public messages should:

- Be crafted for understanding at a 3rd- or 4th-grade level
- Be organized and available in multiple languages and formats
- Be written to include high contrast colors and font or text size adjustments are available for the various visual disabilities
- Detail how videos or podcasts that contain audio, or video files with audio components, are presented to the public with closed captioning transcripts
- ASL Interpreters should be incorporated within all public forums and press events
- Detail how ASL interpreters are displayed when the county is pushing out emergency alerts via video screen

2.4.4 – Detail the integration of communities with older adults

Solano County emergency management officials expressed that there may be challenges in getting older adults signed up for opt-in alerting software. San Diego County community members suggested an opt-out alerting system instead.

In San Bernardino County, community members suggested that the government pre-load free cellular phones with preparedness software, before issuing them to those in need. San Francisco County community members suggested providing technical support for individuals who are not tech-savvy as they are signing up for emergency alerts and accessing information.

Madera County community members identified that many older adults may prefer voice calls rather than text messages due to challenges with technology acuity. Alameda County community members indicated that older adults are often reluctant to answer unknown numbers and that text messaging may be effective unless the number is whitelisted with the telephone providers to aid in this challenge.

Opt-In Emergency Notification

Landline telephones are becoming less common in the United States. Emergency plans should also consider the use of opt-in emergency notification options. In the 2007 Southern California wildfires, the Reverse 911 telephone emergency notification systems and public notification systems for evacuation played a key role in alerting residents and providing timely life-safety information.[31]

2.4.5 – Detail the integration of transportation disadvantaged communities
Although sheltering-in-place is often considered a cost-free endeavor, Tulare County community members identified unaffordable home prices as a cause of food shortages when multiple generations of family members shelter-in-place at the same home.

2.4.6 – Detail the integration of underserved populations
Underserved populations most likely have limited access to information through traditional media. San Francisco community members highlighted the need for broadband access in the *entire* community to have equal access to pre- and post-disaster preparedness materials. For example, many underserved populations in California currently do not have broadband access. Counties should consider pathways to communicate with underserved populations when broadcast media does not exist in an area.

Equal Access to Information
Lake County community members identified that some individuals with internet-based phone service and cordless phones will have no phone service when power fails unless they have battery backups. Tehama County community members suggested mapping out residents without internet access, to better identify who cannot receive emergency alerts through that method.

Another example of how to address this gap was highlighted following the 2015 Refugio Oil Spill when it was suggested that counties develop community open-house event protocols and procedures for in-person community outreach to facilitate earlier community engagement.[23]

During the 1991 East Bay Hills Fire, authorities conducted in-person public information campaigns on evacuation issues after the incident.[13] During community listening sessions Tulare County community members stated that reaching out to mobile home parks to share information about disasters and sheltering is a good way to connect with underserved community members. Flyers, town hall meetings, door-to-door visits, and large-print brochures can be used for communications.

Following the 2012 Baja Earthquake, experts recommended establishing a 2-1-1 information line that can be updated to provide the public with the latest disaster-related information, including evacuation/shelter sites.[4]

2.4.7 – Detail the integration of unhoused communities
Counties should adopt a strategy to partner with organizations or coalitions that serve individuals who are unhoused such as food banks, shelters, urgent clinics, and local agencies such as social services and welfare. A good list, but certainly

not an all-inclusive list, may be found here: The National Health Care for the Homeless Council

It is recommended counties review and possibly use applicable portions of *Principles of Risk Communications - A Guide to Communicating with Socially Vulnerable Populations Across the Disaster Lifestyle*: Risk Communication Guide

2.5 – County pre-identified messages for the primary hazards/threats impacting the County

It is a California best practice for counties to develop pre-scripted and accessible messaging for most common hazards/threats (such as earthquake, flood, utility interruption, and wildfire).[7] Template creation, such as pre-scripted communications for specific incidents, should be drafted and approved before an incident to ensure readiness.[32]

> A Red Flag Warning exists for the cities of (_____). This means there is a high fire danger for your area. Be prepared to evacuate if you receive an Evacuation Warning (GET READY) or Evacuation Order (GO NOW). There is no active emergency in your area. Please share with your neighbors and friends by using (create a # for social media).[29]

Counties should develop specific criteria for when pre-messaging is necessary to alert residents of the hazards around them, and what to do in the event of an imminent threat. Identify what systems counties will utilize to send the messages and who the intended audiences will be. This should include a toolbox of press releases for the media, pre-scripted messages, social media posts, and messaging templates trusted community partners can use to help amplify the message.

The content should include preparing, registering to receive emergency alerts, what to do when they receive specific alerts, and where to get more information. This will decrease a concept called 'milling,' where it becomes fundamental human nature to delay protective action when warned. Instead, individuals delay and search to validate the message they receive and do not take immediate action. If counties can set expectations early, residents will be better prepared to face the threat(s) and take immediate action when warned.

2.5.1 – Identify pre-scripted messages for Animal-related disaster information

Public information and messaging released during the first few operational periods of the Camp Fire did not include animal-specific information and relevant guidance. Exacerbated by rumors and misinformation, community residents who were separated from their household pets and/or livestock began to express frustration. Animal care and control volunteers began to exhibit rogue

behavior in carrying out mission assignments to include unlawfully breaking into private property to rescue animals.[1]

While the JIC eventually took deliberate strides to mitigate the adverse effects this misinformation was having on the community, it was identified as an area for improvement to include animal-specific information at the outset of the response.[1]

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Best Practice Examples for Operational Coordination

3.1 – County identified EOC activation criteria

Incidents that impact an entire county will also affect multiple departments within the county's government. This means that the EOC should be activated. The purpose of a fully activated EOC is to manage large-scale and complex unusual occurrences.

Each department in the county should consider establishing a Department Operations Center (DOC) to maintain operational oversight of events and request resources through the county's EOC. This will ensure proper request and approval processes are followed and limit the span of control of any one organization.[33]

3.2 – County has a program to pre-identify EOC Staff

It is a California best practice for counties to create EOC staffing plans of qualified personnel with requisite training.[14] Counties can perform an analysis of operational activities and determine what support is needed from the EOC.[26] Execute a staffing analysis to determine requirements for support at each level of EOC activation and, where possible, pre-identify personnel to support staffing plans based on activation levels. Counties should consider implementing a formalized process for staff briefings at the EOC for staff coming on to shifts and all personnel following Management Section meetings.[11]

Counties should also plan to alert their staff following the onset of a disaster.[34] Counties should identify staff who, in the event of a disaster, report directly to the EOC, and train them in EOC activation and operations ahead of time.[27]

The Planning and Intelligence Section should be assigned to the EOC and given the responsibility to secure a staffing plan for all operational periods.[32] The Logistics Section carries out the EOC staffing as requested.[15]

3.2.1 – Detail county's program for staffing the EOC

It is a California best practice for counties to maintain accurate EOC rosters to foster timely and efficient communications, including after-hours contact information of response personnel.[8] Counties should direct personnel to delegate their steady-state duties to someone else when activated to the EOC.[18]

It is a California best practice for counties to direct department heads and division managers to maintain current employee phone numbers and develop procedures to recall employees in the event of a declared disaster that occurs

outside the hours of the workday.[27] Counties should establish or re-emphasize an automatic response requirement for EOC staff for immediate response incidents.[34]

During the 2014 Statewide December Storms, local jurisdictions used a manual notification process for EOC personnel and later identified the need to institute an automated system instead.[25]

3.3 – County has a program for training personnel on SEMS/NIMS/ICS

Following the 2009 Los Angeles County Wildfires, experts agreed that emergency management training at all levels of state and local government, need to be enhanced and provided regularly. Local agencies need to provide consistent SEMS/NIMS/ICS training regularly to ensure new staff is trained and to refresh previously trained staff. This will support EOC management during incident operations that span an extended period.[35]

This includes training for internal NIMS/ICS/SEMS roles, as well as internal decision-makers and staff supporting the emergency plan. Ensure that job aids or position checklists exist to assist in the execution of various emergency management roles and positions in the EOC, DOC, COOP Team, JIC, shelter operations, and other operations. Ensure job aids or position checklists are validated through actual events or exercises.[18]

3.3.1 – Detail training program for First responders

First responders include, but are not limited to, 9-1-1 operators, emergency management, Emergency Medical Services (EMS), fire/rescue, law enforcement, transportation responders, and utility responders.

It is a California best practice for counties to establish an ongoing schedule of refresher ICS courses for first responders to attend periodically. This would be especially important for first responders who do not often work in an ICS environment.[8]

3.3.2 – Detail training program for UCP Staff

After the 2004 Upper Jones Tract Flood, several agencies stated that there is a need to provide specific training related to establishing a UCP and unified command to state and local agencies to ensure SEMS protocols are followed.[36]

Emergency management and first responder staff need training on the duties of each job within ICS and where those duties should be carried out. This training should also include position-specific instruction. The roles and responsibilities of all ICS/EOC positions including needed support personnel, equipment, and other necessary tools to manage the incident must be incorporated into regular training.

Training needs to include tabletop exercises, practical applications, and exercises to emphasize the unity of command and current changes in crowd dynamics and strategies to ensure performance objectives are met. This must be training that includes requests for additional personnel or equipment as soon as an issue is identified.[33] Counties should consider training and authorizing field-level commanders to initiate public warnings for evacuations.[7]

3.3.3 – Detail training program for EOC Staff

Increase EOC training specific to section and function and provide more opportunities for drills and exercises.[27] Counties should ensure that all positions within the EOC have a checklist that includes a reminder of sign-in/sign-out protocols, as well as creating and maintaining a thorough activity log.[23]

Emergency managers should build a cadre of fully trained personnel, where practical, to avoid staff burnout, especially during large-scale, long-term incidents.[23] Better adherence to span of control, one of the core principles of SEMS, could ease the burden placed on emergency managers. Improvement may be found by augmenting staffing levels or re-assigning responsibilities during emergency incidents whenever practicable.[22]

During the 2012 Chips Ponderosa Fire, the Northern Regional Emergency Operations Center (REOC) staff instituted a team concept allowing staff to divide the workload and stagger shifts which provided improved continuity of information sharing within the EOC.[22]

Schedule periodic EOC functional exercises of the county's emergency plan, including identifying staffing for the EOC.[27] During SEMS training, a greater emphasis can be placed on the appropriate use of technical specialists and EOC position-specific training. For actual EOC activations, include the use of technical specialists on the checklists of Plans Section Chief, Operations Section Chief, and the Director.[15]

3.3.4 – Detail training program for EOC Sections Chief

Identify and train primary and alternate personnel for the role of Section Chief.[34] Provide section-specific training that incorporates positional training (units and branches) and EOC essentials training.[14] Provide training to EOC personnel on guidelines associated with cost recovery to maximize reimbursement under state and federal regulations. Provide specific training to Finance Section personnel on completion of personnel and equipment record keeping supporting cost capture and auditing.[11]

3.3.5 – Detail training program for county Agency Representatives

SEMS/NIMS/ICS training is important at the county level.[34] It is a California best practice for counties to have a comprehensive training program for department heads, managers, and their staff on how to properly operate using SEMS/NIMS/ICS within the EOC.[4]

Agency representatives at the Orange County Emergency Operations Center were not well trained in their roles, responsibilities, and processes at the EOC. Additional training on ICS principles was needed for all agency representatives and staff members engaged in emergency operations.[24]

3.3.6 – Executive Policy Group and Elected Officials

Additional training is needed for elected officials, agency representatives, and the general public on the emergency plans, preparedness measures, and expectations during disasters within the county. Elected officials were not well informed regarding their roles during emergencies or plans for disaster coordination within the communities affected during the 2017 Orange County water interruption incident.[24]

Counties should develop a playbook or other supportive material within their EOP identifying the county elected officials' roles and responsibilities in an emergency or disaster.[26] *G-402 – NIMS Overview for Senior Officials* training helped elected officials in Solano County to ensure that they fit into the most appropriate part of the organizational chart during an incident.

3.4 – County identifies interfaces with EOC

Counties should provide staff with opportunities to train and drill the transition from a single resource to a multiagency incident. Both command and support staff benefit from working on this complex set of procedures.[13] After the 2004 Upper Jones Tract Flood, several agencies stated that there is a need to provide specific training related to establishing a UCP and unified command to state and local agencies to ensure SEMS protocols are followed.[36]

3.4.1 – Detail interface between county EOC and the Unified Command or Unified Command Post

The EOC Field Liaison position at the UCP should be documented and integrated into the county EOP with position-specific guidance and checklists.[1]

The UCP may not have the same level of situational awareness as the EOC and may presume that recovery is being supported entirely by the EOC. A coordinated transfer of command needs to occur whenever relocating the UCP, especially when transitioning to recovery versus simply deciding to demobilize.[32]

3.4.2 – Detail interface between county EOC first responders

There must be representatives from law enforcement and fire/rescue in the Operations Section of the EOC during any activation.[37]

3.4.3 – Detail interface between county EOC and cities

Counties should provide opportunities in their EOC for city liaison(s)/representative(s) to coordinate activities. Cities should send a trained representative to the county's EOC. However, during significant incidents, city EOCs should also be activated during the response, and early recovery period, to simplify and centralize the coordination of necessary resources.[4] Consider the placement of local government representatives within the EOC to better support collaboration with the county.[11]

3.4.4 – Detail interface between county EOC and tribal nations

During the 2015 Refugio Oil Spill, Santa Barbara County identified the need to collaborate with their tribal partners to know and understand how the priority of cultural resources is specifically enumerated.[23]

Specific protection of cultural resources should be reflected as a priority in emergency plans, such as the Operational Area Oil Spill Contingency Plan, and the Operational Area Emergency Management Plan. Functions associated with fire protection of cultural resources and methods to incorporate tribal representatives should also be included in the plans.[23]

3.4.5 – Detail interface between county EOC and Volunteer and Non-Governmental Organizations

It is a California best practice for counties to consider incorporating a dedicated non-governmental organization (NGO) role into the EOC. This provides an opportunity for the county EOCs to leverage input from VOAD or Community Organizations Active during Disaster.[18]

Ensure that volunteer organizations are represented in EOCs and ensure field organizations are aware of their deployment.[16] During the 2008 Mid-Year California Fires, there was a lack of knowledge and coordination between emergency managers, volunteer programs, and resources available to assist during disasters.[38]

Plans should address the use of a Volunteer Management Unit in the unified command structure.[39] In training, reinforce the Disaster Service Worker (DSW) responsibility of staff to serve when needed.[27] Additionally, plans should address processes for receiving and managing spontaneous volunteers.

3.4.6 – Detail interface between county EOC and Utilities

Having agency representatives from utility companies (i.e., power, water) in the EOC creates a direct line of communication between the EOC and the utilities during a disaster response.[25] Coordination with public utilities significantly reduced the impact to critical infrastructure, including power lines, gas pipelines, and drinking water systems, per the 2012 Chips Ponderosa Fire AAR.[22] It is recommended that county EOCs coordinate with their respective power companies to ensure representation from a utility company is available to establish a direct line of communication. It is also recommended that utility representatives be included in planning efforts and exercises.[15]

3.5 – County has clearly defined minimum acceptable criteria for establishing a UCP

An established UCP aids Unified Commanders with the necessary oversight to manage an event effectively. A UCP also provides a central location to coordinate resources with assisting agencies, operationally track and deploy resources assigned to the incident, monitor the location of threats, improve situational awareness, and make decisions. Unified Commanders can continually evaluate the effectiveness of the objectives for the incident and update or modify them as necessary.[33]

3.5.1 – Pre-identify potential UCP locations

Pre-identification of potential UCP locations is important. Counties can pre-identify locations to accommodate staff who may be involved in a UCP during various hazard/threat scenarios. This includes identifying enough available workspace with the capability for security, technology, power, and backup power.[39]

When possible, the command post should stay in one place.[33] Moving the UCP during response operations hindered agencies from being able to participate in the unified command during the 2009 Cosco Busan Oil Spill in the San Francisco Bay Area.[39] When pre-planning for critical facilities in the county, consider pre-identifying a second/alternate UCP site.[32]

3.5.2 – Pre-identify equipment and supplies needed to activate a UCP

To enhance the UCP, certain supplies are optimal. For example, during the first couple of nights of protests, the UCP did not have large maps for operations. The maps would have assisted in situational awareness and the ability to track resources and crowd movement during the 2020 civil unrest in Los Angeles.[33]

3.5.3 – Pre-identify UCP and representation

Connectivity with other agencies: Having other agency representatives at the UCP was extremely important for the coordination of resources. Not only did this

allow for timely information sharing but it allowed decision-makers from those agencies to maintain an adequate level of situational awareness.[33]

3.5.4 – UCP Roles & Responsibilities

The concept of a unified command is an essential part of ICS. Counties should ensure that appropriate jurisdictions are part of the unified command for incidents involving multiple jurisdictions with statutory authority. In the case where the incident revolves around privately owned systems, everyone in the unified command must be aware of the actions taken by the responsible parties to eliminate duplicative or unnecessary actions by other entities on the scene. Having the responsible party part of a unified command will greatly assist in the elimination of duplicative and unnecessary actions.[8]

The unified command needs to be established early in the response system.[36] Implementation of the unified command structure resulted in successful and efficient operations during the 2010 San Bruno Explosion. Unified command and strong coordination between fire and law enforcement were key to evacuating the residents.[40]

Representatives from all levels (local, regional, state, federal, tribal, and non-governmental) should be included as part of the unified command to share information related to local resources.[39] An information board containing the names and contact information for the various SEMS functions should be posted at the UCP.[36] After the 2015 Refugio Oil Spill, county participation in unified command structure was formalized in an MOU and incorporated into the Santa Barbara Operational Area Contingency Plan.[23]

During the 2009 Los Angeles County Wildfires, implementation of the unified command structure resulted in successful and efficient operations. Unified command and strong coordination between fire and law enforcement were key to evacuating large numbers of residents and animals threatened by the rapidly burning fires during the Station Fire.[35]
Establishment, location, and communication protocols of UCPs need to be incorporated into training. Counties should consider an existing facility for the UCP during extended operational incidents.[33]

3.5.5 – Detail the span of control during complex incidents

Counties should ensure policy information and overarching objectives are communicated to multiple command posts to facilitate information flow and resource coordination.[33]

3.6 – County has clearly defined minimum acceptable criteria for establishing an EOC Facility

- Emergency Operations Center
  - The physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOC may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., federal, state, regional, tribal, city, county), or some combination thereof.
- Department Operations Center (DOC)
  - An EOC specific to a single department or agency where the focus is on internal agency incident management and response. They are often linked to and, in most cases, are physically represented in a combined agency EOC by authorized agent(s) for the department or agency.
- Virtual Emergency Operations Center (VEOC)
  - An EOC that functions with a virtual platform, which has a variety of technology that moves the EOC from a physical location into "cyberspace."

Jurisdictions establish EOCs to meet their unique requirements and needs. Therefore, no two EOCs are designed the same. FEMA has provided tools and resources for building or maintaining EOCs, in accordance with NIMS, which can be found here: NIMS Components - Guidance and Tools

3.6.1 – Identify county's primary EOC location

Since the 1964 Alaskan Earthquake, experts have agreed that "there must be an adequate operations headquarters for [emergency management]." This should include heat, power, lights, and space for the operational personnel. There should also be controlled access for those who work in headquarters, and those who are not involved in the emergency operations.[2]

During the 2020 COVID-19 pandemic, remote access was used by State Operations Center (SOC) staff. This proved for the first time that the SOC location could be managed with a virtual platform. For continuity of government purposes during a pandemic, an EOC should be able to function as a VEOC.

3.6.2 – Detail accessibility of county's EOC

Ensure space provided for personnel within the EOC is sufficient for individuals using wheelchairs or other assistive devices.[11]

The EOC should be prepared to coordinate housing solutions for staff responding to the EOC for more than two weeks. Assess and procure equipment for use in the EOC as sleeping quarters (e.g., murphy beds, reclining chairs, sleeping trailer). Designate a separate space for mental health services within the EOC or in a trailer on site.[11] An EOC should ideally be designed to be survivable from a significant earthquake or catastrophic storm activity. Consider having meal rations on hand to overcome temporary fluctuations in logistics chain management.

The size and layout of the county's EOC, while adequate for past emergencies, was not fully sufficient to support a large-scale, multi-jurisdictional, multi-operational period, and complex response such as the 2018 Camp Fire. In addition, the EOC was not equipped with the appropriate technology to support an efficient and effective response by the County. For instance, given the widespread and dynamic nature of the Camp Fire and all the information it produced, there was no feasible way to adequately display critical incident-related information in support of a common operating picture in the County EOC. Informational displays within the EOC meant to project the common operating picture were inadequate, which hindered situational awareness. Improvements to the EOC could facilitate more efficient and effective management of incidents in the future.[1]

3.6.3 – Detail the county's EOC backup power capabilities

Ensure the emergency generator is connected to the circuits that power the pre-designated location of the EOC.[4]

3.6.4 – The county's alternate EOC location

Continuity of operations plans dictates the need to pre-identify alternate sites for the EOC in case the original location cannot be used.[4] The county should identify and, where necessary, establish memorandums of agreement with alternate facilities from which it can relocate to and maintain continuity of operations in the wake of a large-scale response. The county should also regularly exercise such relocation.[1]

Identify an EOC Set-Up team.[14] Evaluate triggers for an increased readiness posture and EOC activation for de-energization events; for EOC activations, identify best practices for the duration of activation to balance the need for coverage and to make the activation as short as possible.[18]

The EOC startup guide needs to have additional phone numbers for key county staff and emergency response partners. Copies of maps need to be pre-positioned in the EOC to assist in incident/event tracking. A GIS technical specialist needs to be available to EOC staff during activations.

Best Practice Examples for Critical Transportation

4.1 – County has a current, approved Evacuation Plan

It is a California best practice for counties to develop an evacuation plan that is simple, functional, and can be scaled up or down depending on the incident. The evacuation plan should contain considerations for those with disabilities and others with AFN.[26] For example, having MOUs within, and outside, the jurisdiction to provide accessible transportation services 24/7 to evacuate individuals with AFN. Evacuation plans should identify specific actions for road closures and enforce them. Include early signage and remote notification if possible.[10]

Improve communication with neighboring counties on evacuation planning through a regional planning effort.[24] Develop, in conjunction with special districts, cities, counties, regions, and state stakeholders, a truly inter-jurisdictional coordinated mass evacuation plan. Carry out evacuation drills with voluntary resident participation to educate the public and train staff in evacuation techniques.[1]

Some suggested guidance documents can be found at:

- FEMA Planning Considerations: Evacuation and Shelter-in-Place Guidance for State, Local, Tribal, and Territorial Partners
- Caltrans Transit Emergency Planning Guidelines
- Caltrans Rural Transit Emergency Planning Guidance
- CDFA - State of California Best Practices for Allowing Pets on Public Transit

A best practice example of planning tools for critical transportation and evacuation can be found In the Bay Area Urban Area Security Initiative (UASI) *Critical Transportation Toolkit* which can be found here: www.bayareauasi.org

4.1.1 – County has a current, approved fueling/re-fueling plan

It is a California best practice for counties to develop a fuel plan to include prioritization, security, movement, and alternative fueling sources. For government-owned fuel stations, consider installing manual transfer switches to support disaster-installed generators that support the pumping of fuel. Procure manual pumps to extract fuel from de-energized in-ground tanks. Counties should consider obtaining access to a fueling vehicle for the county to facilitate refueling of generators and vehicles when commercial resources are not available or cannot keep up with demand.[18]

4.1.2 – Plan is consistent with Standard Statewide Evacuation Terminology

During the Bobcat Fire in LA County in October of 2020, while most agencies were using common terminology, some cities, along with the media, were still using the terms voluntary and mandatory when it came to issuing evacuation alerts, further confusing residents who were also getting emergency alerts from other agencies with the terms Warning and Order.[29]

Community members in San Diego County highlighted the potential for confusion over terminology (Evacuation Order vs. Evacuation Warning). They suggested this could be reduced if alert messages included a hyperlink to definitions.[13]

Standardized language for evacuations can be found here: www.calalerts.org/evacuations

4.1.3 – Plan includes temporary evacuation points and/or rally points

Identify strategic locations for community/neighborhood survival areas within the county. Accessible transportation considerations should be incorporated for evacuees to get to a temporary evacuation point and beyond to an emergency shelter or non-congregate shelter. Harden these locations against hazards/threats (i.e., fires), and socialize these locations and the availability of transportation with the community.[1]

4.1.4 – Plan includes pre-identified triggers for evacuation warning/order

It is a California best practice for counties to have a process to ensure positive contact with evacuation decision-makers simultaneously no matter the day of the week or the time of day.[20]

Planning for evacuation should be closely tied with planning for alert and warning. When an incident requiring immediate evacuation of multiple jurisdictions occurs, the coordinated notification must be a priority so that the evacuation process can be effective and efficient.

4.2 – County has a current, approved re-entry/re-population plan

Re-entry and re-population may occur incrementally and should be a key priority for the county. During the Camp Fire incident, residents vocalized their desire to return to their homes, and county staff recognized that repopulation would be a pivotal factor in community recovery and healing. In tandem, availing opportunities for people to return to their homes eased the need to house people at shelters.[1]

4.2.1 – Plan includes pre-identified triggers for re-entry/re-population

Document the process established for repopulation to formalize the process and ensure continued coordination in repopulation events.[1]

Develop a tiered re-entry protocol that accounts for response personnel, essential functions, major companies and employers, and other organizations vital to the return of the evacuated population while balancing the need to execute life safety and debris management operations.[11]

Formalize the processes of allowing residents private access to their property following the evacuation, providing residents with environmental health resources as appropriate, and supplying mental and behavioral health resources during repopulation.[1]

4.2.2 – County re-entry/re-population plan was created in collaboration with the whole community

Repopulation strategies should contain considerations for those with disabilities and others with access and functional needs. Develop repopulation strategies that include considerations for public health and safety in a variety of conditions. This should be included in the county's PIO strategy.[26]

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Best Practice Examples for Fatality Management

5.1 – County has a current plan for Fatality Management

5.1.1 – Detail program for remains recovery

A best practice learned from the Camp Fire is to document the integrated approach to recovering remains for large-scale incidents.[1]

Document the process for handling remains once they have been discovered and enhance the county's access to anthropologists, forensic pathologists, and others involved in the process of handling remains. Pre-establish the process for the transport of remains and assess available resources, within the county and in neighboring jurisdictions, to assist in this process.[1] Establish a coordinated process through the Family Assistance Center to retrieve familial DNA for use in the Rapid DNA Testing kits.

Document the process for remains identification during a large-scale incident and maintain established relationships with technology providers developed through the Camp Fire. Train on the integration of search and rescue, urban search and rescue, anthropologists, and coroner's investigators to optimize the process.[1]

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Best Practice Examples for Infrastructure Systems

6.1 – County has a current Response Plan for Critical Facilities and Infrastructure

It is a California best practice for counties to review for alignment the plans of critical facilities and infrastructure based on perceived threats, incorporating restoration as well as recovery actions.[10]

The Federal Department of Homeland Security (DHS) has pre-identified sixteen sectors* of critical infrastructure. These include:

- Chemical Sector
- Commercial Facilities Sector
- Communications Sector
- Critical Manufacturing Sector
- Dams Sector
- Defense Industrial Base Sector
- Emergency Services Sector
- Energy Sector
- Financial Services Sector
- Food and Agriculture Sector
- Government Facilities Sector
- Healthcare and Public Health Sector
- Information Technology Sector
- Nuclear Reactors, Materials, and Waste Sector
- Transportation Systems Sector
- Water and Wastewater Systems Sector

Optional additional sectors may include:

- Faith-Based Sector
- Cultural and Historical Sector
- Education Sector (i.e., schools, colleges, universities, and childcare)

Additional information on DHS' critical infrastructure sectors can be found here: www.cisa.gov/critical-infrastructure-sectors

While counties do not need to have a plan for every piece of critical infrastructure, emergency managers should consider identifying each facility in their jurisdiction which falls under these sectors, establishing a connection with the facility's emergency manager, and reviewing site-specific emergency plans

* - Sector is DHS term, not an ICS-compliant term

to ensure that their needs are properly included into the county's emergency plan.

During the Orange County water interruption of 2017, emergency managers recognized that a utility interruption annex did not exist and there was limited guidance on how the community should coordinate a major utility interruption.[24]

It is a California best practice for counties to inventory and map all telecommunications infrastructure in the county, including fiber routes and secured/unsecured fiber.[7]

It is a California best practice for counties to develop a historic preservation plan to properly identify all historic and cultural resources and strategies for protecting them during an event.[10] Counties should also work with Tribal Nations to map cultural resources.[7]

6.2 – County has a current Damage Assessment plan

6.2.1 – Identify the roles and responsibilities of damage assessment teams

Ensure the Initial Damage Estimation (IDE) process is completed by the county before a Governor's request for a Presidential declaration of a major disaster is submitted. This process must be completed correctly and consistently.[4]

Coordinate the Preliminary Damage Assessment (PDA) process with a county point of contact, not via individual cities.[34] Counties should take advantage of skilled staff, such as damage assessment and builder inspectors, to minimize the time needed to complete damage assessments. This would also assist the jurisdiction by reducing the workload on staff, so they can be used in other capacities.[4]

6.2.2 – Identify training for damage assessment teams

There needs to be more training on the hazards of damaged buildings. County's need to coordinate with the private sector on the risks associated with earthquake damage.[4]

Best Practice Examples for Logistics and Supply Chain Management

7.1 – County has a current Resource Request Program

7.1.1 – Detail county resource request program

Logistics requests during incidents should be clearly defined, including the type, number, and destination location of each resource.[37] County emergency plans should include mutual aid and ensure that the EOC is aware of all mutual aid requests and authorizes deployments.[16] Additionally, counties should prepare frontline response agencies for worst-case scenarios, particularly fires, floods, earthquakes, hazardous material, and mass casualty incidents.[13] Counties should standardize and pre-identify response/recovery teams and make them ready for dispatch to any county affected by future significant incidents.[34]

Please see the FEMA Supply Chain Resilience Guide for guidance.

7.1.2 – Detail ICP resource request program

There should be a consolidation of resource requests established at the Incident Command Post. The ordering and procurement of resources must come from one, identified source. In most cases, this will be through the Incident Commander or the Logistics Section that is established to represent all responders and from all disciplines and agencies.[37]

7.1.3 – Detail city and special district resource request program

Logistics should specify a process where needs that remain unfilled at the local level can be procured through a county process. Local jurisdictions need to be clear about what function the requested individual will be performing before the individual is deployed via a mutual aid request. A deployed individual also needs to be dedicated to performing that assignment for a set period to prevent the necessity of refilling that position immediately.[4]

7.1.4 – Detail out-of-county resource request program

Identify how many resources the county will make available for out-of-county response and under what conditions.[17]

7.1.5 – Detail the private sector/NGO resource request program

Develop scopes of work for positions that may need to be contracted or assigned to trained volunteers to meet the emergency response objectives. Procure, develop contracts with vendors, or develop MOUs with organizations to provide durable medical equipment required in shelters to support the general population and those with disabilities and others with access and functional needs. Develop Master Service Agreements with other organizations that

include the scope for positions that may be filled, as appropriate, and specify compensation issues.[26]

A list of local vendors and their 24-hour contact information should be developed. If possible, MOUs or contracts with vendors of critical emergency response resources should be entered into before events. The method of payments to vendors in emergencies should be clearly defined at the time that the resource is procured.[37]

7.1.6 – Detail evacuation resources available to the county

It is a California best practice for counties to develop a comprehensive inventory of evacuation resources including transportation providers, the number of assets, capabilities of transportation assets, ability to accommodate accessibility for those with disabilities and others with AFN, consideration for pets, drivers capable of operating transportation resources, and contact information of resource providers.[26]

7.2 – County has a current Mutual Aid Plan

The California Disaster and Civil Defense Master Mutual Aid Agreement requires signatories to develop plans to mobilize public and private sector resources to cope with any type of disaster (see also GC § 8615). Response agencies should plan for receiving mutual aid from many participants. Include in plans reporting, staging, deployment, supporting, and demobilization protocols.[13]

7.2.1 – Detail the county's resource deployment program

In past incidents, some jurisdictions have self-deployed mutual aid resources and did not coordinate with the affected unified command.[38]

7.2.2 – Detail the county's resource arrival program

Mutual aid arrived quickly, and personnel were flexible in the roles and responsibilities that they were assigned during the 2004 Upper Jones Tract Flood incident.[36]

7.2.3 – Detail the county's resource staging program

It is a California best practice for counties to review existing plans and make updates as necessary to include a process for identifying and establishing staging locations outside the affected area to send and stage emergency vehicles during mass evacuation incidents.[1]

It is a California best practice for counties to identify multiple, pre-vetted locations for staging areas within the county. Harden these locations against potential disasters and socialize these locations with response agencies. Document the process of establishing a staging area immediately upon incident

initiation as well as the process for communicating the location of the staging area with response partners.[1]

The staging area provided the needed infrastructure to effectively manage resources, including many personnel contributing to the response through mutual aid. During the Camp Fire, the staging area established a central location for reporting, resource staging, and overall incident management as the UCP was co-located at Butte College near the resource staging area. Document the integration of dispatchers into the staging area and clearly define their roles and responsibilities.[1]

7.2.4 – Detail the county's resource demobilization program

It is recommended that all jurisdictions ensure their respective demobilization procedures are consistent with the SEMS-approved course of instruction and adhere to those procedures during the demobilization of resources.[41]

7.2.5 – Detail county's resource scalability program

Counties should consider how to effectively expand an incident from single mutual aid resources to complex mutual aid resources. NIMS Incident Complexity Guide outlines five different types of incident complexity. Counties should provide staff with opportunities to train and drill the transition from a simple, single resource incident (Type V) to a complex, large-scale, multiagency incident (Type I). Both command and support staff benefit from working on this complex set of procedures.[13]

Additional information on incident types can be found in FEMA's National Incident Management System Incident Complexity Guide (January 2021) here: www.fema.gov as well as the *National Incident Management System Guideline for Resource Management Preparedness* (June 2021) to plan for resource management which can be found here: www.fema.gov/nims-guideline-resource

7.2.6 – Detail the county's Emergency Management Mutual Aid (EMMA) program

During the 1991 East Bay Hills Fire, local emergency management staff from each community were overwhelmed. Oakland responded by accepting emergency managers from Santa Clara and Contra Costa as mutual aid staffing.[13] Counties should examine their EOC activation protocol and coordination process to allow emergency management staff from adjacent jurisdictions to be incorporated into EOC.[16]

It is a California best practice for counties to define roles and responsibilities, communicate them to local government partners, and exercise them. Consider the potential for building out the concept of sub-regional hubs in which the

county staff augment city EOCs to support the influx of residents from unincorporated areas.[26]

7.2.7 – Detail the county's Law Enforcement Mutual Aid program

Although managing the large influx of resources proved difficult during the Camp Fire, processes were quickly established for the successful integration of mutual aid into the local response. Mutual aid personnel were able to follow local plans and procedures under the leadership of local law enforcement.[1]

The use of law enforcement mutual aid was very effective during the evacuation phase of the 2017 Oroville Spillway Incident, with more than 188,000 people moved to safety in a matter of hours.[20] Law enforcement mutual aid coordinators should consider including tribal law enforcement in the mutual aid system to increase coordination and collaboration.[15]

7.3 – Resource Management Plan coordinates with Emergency Support Functions

7.3.1 – Detail the role of an Agency Representative vs. Emergency Support Function Coordinator

Following the 2014 Napa Earthquake, the issue of understanding the difference between an Agency Representative and an Emergency Support Function Coordinator (ESF) Coordinator in the EOC remained unclear. The recommendation is to first define clearly what an ESF Coordinator is, including roles and responsibilities. Next, develop a robust formal ESF Coordinator curriculum and train people to that curriculum. To go one step further in eliminating any confusion between an ESF Coordinator and an Agency Representative, combine Agency Representative training with ESF Coordinator training.[42]

7.3.2 – Detail the roles and responsibilities of each ESF Coordinator

Solano County suggests that counties clearly define what an ESF Coordinator is including roles and responsibilities. Next, develop a standardized ESF Coordinator curriculum and train people to that curriculum.[42]

7.3.3 – Recommend that the counties establish and integrate ESFs with CA ESFs

The following California ESFs are included in the State Emergency Plan (SEP):

- CA-ESF #1 – Transportation
- CA-ESF #2 – Communications
- CA-ESF #3 – Construction and Engineering
- CA-ESF #4 – Fire and Rescue (including Search & Rescue)
- CA-ESF #5 – Management
- CA-ESF #6 – Care and Shelter
- CA-ESF #7 – Resources

- CA-ESF #8 – Public Health and Medical
- CA-ESF #10 – Hazardous Materials
- CA-ESF #11 – Food and Agriculture
- CA-ESF #12 – Utilities
- CA-ESF #13 – Law Enforcement (including Search & Rescue and Evacuation)
- CA-ESF #14 – Recovery
- CA-ESF #15 – Public information
- CA-ESF #17 – Volunteer and Donations management
- CA-ESF #18 – Cybersecurity

Additional information on California Emergency Functions can be found here: Emergency Support Functions

The following Federal ESFs are included in the National Response Framework:

- F-ESF #1 – Transportation
- F-ESF #2 – Communications
- F-ESF #3 – Public Works and Engineering
- F-ESF #4 – Firefighting
- F-ESF #5 – Information and Planning
- F-ESF #6 – Mass Care, Emergency Assistance, Temporary Housing, and Human Services
- F-ESF #7 – Logistics
- F-ESF #8 – Public Health and Medical Services
- F-ESF #9 – Search and Rescue
- F-ESF #10 – Oil and Hazardous Materials Response
- F-ESF #11 – Agriculture and Natural Resources
- F-ESF #12 – Energy
- F-ESF #13 – Public Safety and Security
- F-ESF #14 – Cross-sector Business and Infrastructure
- F-ESF #15 – External Affairs

Additional information on Federal ESFs can be found here: National Preparedness Frameworks

7.4 – County Resource Management Program coordinates with Non-Governmental Organizations and private sector resources

It is a California best practice for counties to develop pre-event contracts, in alignment with federal procurement requirements, to support efficient resource requests and procurement during and following disasters. Develop standby contracts with transportation providers for use in future emergencies.[11]

Alameda County community members identified that there are volunteer and NGO mutual aid networks in parts of California, such as the Mutual Aid Hub which can be found at: www.MutualAidHub.org. San Francisco County emergency management officials suggest that full-time equivalent position may be needed to effectively maintain a resource management inventory/database for a large jurisdiction.

Business entities were not well represented at the Emergency Operations Center and did not receive situational awareness information to support their decision-making processes during the 2017 Orange County Water Interruption incident. Businesses believed they did not receive sufficient and timely information on the potential impacts of the event to make business operation decisions.[24]

7.5 – County has current Volunteer and Donations Management Plan

Counties should identify the strategy for volunteer management overall, create a working group of partners, and develop a Spontaneous Volunteer Management Plan and/or Annex to the EOP and incorporate these findings from the Camp Fire.[1] It is a California best practice for counties to have a current Volunteer and Donations Management Plan.[10] The plan should be trained to and then validated through a planned exercise.[1]

7.5.1 – Detail the county's volunteer engagement program

Counties should plan, prepare to deal with, and use spontaneous volunteer resources early in an incident.[13] Counties should implement and update a plan that will enable local and state government agencies to effectively utilize volunteers in a timely and safe manner, even during potentially hazardous incidents (i.e., an oil spill response).[39]

After the 2015 Refugio Oil Spill, Santa Barbara County identified the need to develop a Spontaneous Volunteer Plan.[23] Consistent policies should be implemented across all jurisdictions to provide similar health and safety messages.[39]

Scalable

It is a California best practice for counties to ensure the Spontaneous Volunteer Management Plan which identifies multiple strategies flexible enough to scale up or down depending on the size of the incident and allows for a robust volunteer system. Counties should pre-identify specific documentation and form requirements for Emergency Volunteer Centers (EVCs), including badging/credentialing, and volunteer tracking.[1]

Counties should ensure that messaging regarding the volunteer deployment process is clear and persistent across multiple mediums.[1]

Community Emergency Response Team (CERT)
Volunteer groups provided invaluable support and assistance in non-suppression, support roles, freeing fire suppression personnel to focus on firefighting activities during the 2007 Orange County Santiago Fire.[17]

Formal structures for volunteer engagement are effective to support response and recovery efforts.[23] There are many variations of CERTs (e.g., Neighbor Emergency Response Team (NERT), etc.). Counties should consider developing training programs for residents and employers in emergency response techniques.[27]

During the North Complex Fire, Butte County activated its CERT as a call center to provide information to those impacted by the fire. They had up-to-date GIS maps from the Sheriff's Office as well as the county's information services office.

CERT teams can support the first responders during wildland fires but need appropriate training.[16] Through county plan development and other forums, counties can provide training to local first responders on the capacity and proper involvement of volunteer resource teams, such as CERTs, Medical Reserve Corps, Volunteers in Police Service, and others.[16]

7.5.2 – Detail the county's Just-in-Time Volunteer program
Just-in-time training for volunteers can be developed and organized very quickly and efficiently.[23] Counties should develop a policy in every emergency organization to promote and use volunteers.[13]

7.5.3 – Detail the county's public information strategy about acceptable donations
Utilize media to provide information on donations: "Cash is always best," and "what is not needed." This is a message which must go out at the beginning of the disaster. It keeps unnecessary items being donated and provides the disaster survivors with what is needed most—financial assistance to meet emergency needs and/or long-term recovery and rebuilding.[40]

7.5.4 – Detail the county's program for handling physical donations
Counties may consider establishing agreements with facilities the collection and sorting point for unsolicited donated goods following a disaster. Receiving depots should be activated immediately. Counties cannot afford to wait to see if goods are donated. Planners must assume they are coming and prepare for their arrival.[19]

Butte County officials identified that they should establish an inter-departmental and multi-disciplinary team of county stakeholders to examine and document the donations management-specific best practices and lessons learned during

the Camp Fire response and recovery efforts. Further, this team developed a list of recommendations to inform the development of a Donations Management guidance document.[1]

7.5.5 – Detail the county's program for handling financial donations

A county plan should include in-kind and monetary donations. Counties should consider establishing an MOU with partner agencies to be responsible for donated goods. The MOU could guide redirection of in-kind goods as needed.[40]

Create collaboration with an existing foundation, such as California Veterinary Medical Association, to collect financial donations, and then distribute based on participation.[16]

7.5.6 – Detail the county's volunteer and donations management tool

Counties should consider developing/establishing a database management tool capable of tracking available donations, including volunteers who volunteer their time.[16] Emergency Volunteer Centers (EVCs) could help to reduce the burden on the Office of Emergency Management in managing volunteers.

7.6 – Points of Distribution/Dispensing

A Commodity Distribution Plan should be created to support and ensure coordinated and efficient delivery of commodities to community members impacted by emergencies.[24]

A comprehensive commodity distribution process should be included in the response operations framework with details on the county responsibilities for point of dispensing operations.[24]

7.6.1 – Detail point of distribution roles and responsibilities

Each point of distribution (POD) needs to have a lead individual who is responsible for site management, communications to the EOC, etc. Security and traffic control coordination needs to be provided at each POD.[24]

7.6.2 – Pre-identified locations which could potentially be used as a POD

POD locations should be pre-identified and accessible through public transportation routes with enough staff or the right equipment to be as effective as needed.[24]

Best Practice Examples for Mass Care Services

8.1 – County has a Current Shelter Plan

It is a California best practice for counties to have a Care and Shelter plan as an annex to the county's emergency plan, or as a separate standalone document. The plan should detail the plans and procedures to ensure consistency of approach towards shelter management.[26] The existing shelter inventory should identify shelter sites that have backup generation capabilities for future de-energization events.[26]

FEMA Planning Considerations Evacuation and Shelter in Place

8.1.1 – Detail the county's mass care and shelter roles and responsibilities

Counties and state agencies reported successful collaborations during 2014 California Drought with non-emergency management local nonprofit organizations to assist in carrying out drought-related activities, such as housing and utility assistance, relocation assistance, and provision of bottled water.[28]

Some jurisdictions have delegated the responsibility of shelter operations to the American Red Cross (ARC). After the 2013 fire season, Riverside County Office of Emergency Services advised they would engage in an ongoing effort to update their Care and Shelter Plan to provide clearer direction to the county staff in the event ARC is not available to assist with sheltering operations in the initial phase of disaster response.[43]

When local agencies initiate shelter operations to be relieved or augmented by ARC or another community partner, it is essential to ensure a smooth transition. Included in these considerations should address the specific concerns related to the handling and sharing of shelter client information.[26]

8.1.2 – Detail the county's training program for shelter staff

It is a California best practice for counties to develop training to orient EOC and field level care and shelter staff on the new organization of the Care and Shelter Branch and establish a communications pathway and workflow from the EOC to the field. Expand opportunities for shelter operations training for human services/social services personnel.[26]

During the check-in process of evacuees at the shelter, there should be a form or tracking method of who is currently in and who has temporarily or permanently left the shelter.[10]

8.2 – County Shelter Plan was created in collaboration with the Whole Community

Capabilities related to providing care and shelter services to populations with disabilities and others with AFN, should continue to be developed and formally documented in a care and shelter plan to provide specific and clear procedures and policies for shelter workers.[26]

Some examples include:

- Avoiding institutionalization of individuals coming from independent living environments by being able to address acute medical needs at shelters
- Allowing service animals inside shelters

8.2.1 – Detail the integration of cultural competence into mass care services

During the 2004 Upper Jones Tract Flood, migrant workers were hesitant to use mass care and shelter services. The AAR suggested counties use a non-governmental organization to interface with the affected survivors.[36] Community feedback from San Bernardino County indicated that it is important to name the shelter as a safe space and specific documents if any, a shelter client should have on hand to enter. Tulare County community members also suggested that a multi-lingual hotline be set up so undocumented individuals can find a safe place. This could also allow trusted sources to call in on their behalf to ask important questions during a crisis.

8.2.2 – Detail the integration of Individuals with intellectual, cognitive, and physical disabilities into mass care services

It is essential to provide sufficient medical personnel and supplies to support shelter operations for individuals with acute medical needs arriving from institutionalized settings. While such individuals may arrive with staff from their respective facilities, plans should address the more realistic scenario that staff are affected by the disaster and qualified supplemental personnel to deliver care services will be needed.

Establishing procedures at skilled nursing facilities, long-term health care facilities, and board and care homes to evacuate patients/clients to "like" facilities help ensure individual needs are met without going to general shelters.

The county's office of emergency services, in partnership with the county's primary mass care agency, may develop a robust list of personal, medical, behavioral, and mental health personnel and supply resources including durable medical goods (wheelchairs, walkers, canes, etc.), mechanisms for obtaining and supplying consumable medical equipment, and services (e.g., pharmaceutical services, personal care attendants), for immediate deployment, in the event a shelter is opened where there is a need for support

of acute medical needs or other access and functional needs, including among individuals who live in group settings within the evacuated population.[44]

8.2.3 – Detail the integration of transportation disadvantaged individuals into mass care services

The California Department of Social Services operates a program known as Functional Assessment Service Team (FAST). It is a California best practice for counties to use the FAST approach for gaining awareness of critical access and functional needs in congregate and non-congregate shelters.

Expand opportunities for FAST program training for human services/social services personnel.[26]

This includes the establishment and documentation of communication pathways between FAST program support and the EOC to prevent delays in situational information and resources.[26]

8.2.4 – Detail the integration of underserved populations into mass care services

Santa Cruz County provided shelter clients with tents within a structure, for social distancing and privacy during the COVID-19 pandemic. In Madera County, the Red Cross utilized a private contractor to identify and reserve motel/hotel rooms for non-congregate sheltering purposes. It is a best practice to incorporate wellness checks for evacuees in both congregate and non-congregate settings, either through the utilization of FAST, telephone check-in, or other types of platforms for disposition and meeting the health and safety needs of clients.

You can also find guidance here: Mass Care and Shelter Guidance for Local Governments during a Communicable Disease Outbreak or Pandemic

8.2.5 – Detail the integration of individuals who are unhoused into mass care services

Explore the unique considerations for the chronically unhoused population when they utilize the services of emergency shelters. This population will need a different set of social services and support inside a shelter and when the emergency shelters close; this may impact the decision of when to close the shelter.[26]

8.3 – County Shelter Plan includes pets and large animals

Counties should work with county agricultural commissioners and the local office of emergency services to identify the best methods of supporting pet populations and at what SEMS level during emergency activations.[31]

Counties need to develop and practice their animal plans. This should include linkage with law enforcement and fire agencies. Emergency plans also need to

address possible co-location of human and animal shelters, including support of service animals who may accompany people with disabilities. More work with non-profit animal care groups should be considered to ensure they integrate into disaster response.[16]

Emergency animal sheltering may incorporate the needs of all major categories: search and rescue, shelter locations, and veterinarian care. Pre-incident planning is needed to identify resources: people, places, populations, and types of animals per jurisdiction.[30]

8.4 – County plan details the Local Assistance Center program

Local Assistance Centers (LAC) provide a central location for disaster survivors to meet face-to-face with numerous state and local agency representatives, elected officials, and insurance companies.[31] However, the local government must be prepared for opening LACs quickly, with ample advertisements in a variety of formats to the general public to accommodate the whole community.[35]

- Community Resource Center (CRC)
    - Provides resources, referrals, information, and support. They can assist individuals and families in accessing resources in their community by providing information and referrals for basic needs such as food, clothing, housing, employment, and transportation.
- Disaster Recovery Center (DRC)
    - A readily accessible facility or mobile office where applicants may visit for information about FEMA or other disaster assistance programs. Provides guidance regarding disaster recovery assistance and programs for survivors.
- Family Assistance Center (FAC)
    - Provides services and information to the family members of those killed and injured, as well as those people otherwise impacted by an incident. The same place utilized for a Reunification Center may be used for the Family Assistance Center.
- Local Assistance Center
    - A one-stop-shop with critical government services for residents who have been impacted by an incident. Provides services to assist with replacing lost or destroyed vital documents (ID, financial information, etc.) and get connected with support services.

8.4.1 – Identify the county's roles and responsibilities for a LAC

Collaborate with state and federal partners to formalize plans associated with LAC. Detail LAC procedures in a formal LAC plan or standard operating procedure.[3] The LAC plan should include a hotline and a shuttle service to include paratransit services. The plan should have in-person or telephonic

foreign language and ASL languages services available. Also, the plan may provide a number or email on LAC messaging materials for people to request a reasonable accommodation

County offices of emergency services should coordinate the opening of a LAC. Once the LAC is operational then a different agency or department can manage the LAC. The managing agency or department should work with Cal OES Individual Assistance (IA) staff to gain advice and guidelines for running an effective LAC.[43]

8.4.2 – Detail the county's pre-identified LAC locations

It is a California best practice for counties to pre-identify facilities which meet minimum standards and can be used as evacuation shelters and/or LAC.[3]

Site Selection
Considerations should include[45]:

- Compatibility with the Office of Safety and Health Assessment (OSHA) and the Americans with Disabilities Act (ADA) requirements including facility size.
- Near individuals and families affected by the disaster.
- Convenient access to public transportation (e.g., highways, main thoroughfares, mass transit).
- Secured, lighted parking areas and walkways adequate for the number of LAC participants and clients.
- Close to available food services (e.g., restaurant, coffee shop).
- Adequate office space for processing applicants and confidential discussions with clients and LAC participants.
- A sufficient number of telephone and data lines.
- Appropriate lighting, heating, ventilation, electrical, plumbing capabilities, and restrooms.
- Availability of adequate janitorial and waste disposal services.

It is important to collaborate with state and local agencies when selecting LAC locations.[16] Counties should pre-identify LAC locations and plan enough security, so agencies do not need to pack up equipment each night and re-setup each morning.[4]

Identify locations for LACs based on demographic analyses and community needs that can predictably host LACs for future events, so that the community can anticipate where to find services available from LACs even when they are not able to receive communications due to de-energization. This should include facilities that can survive the weather and lack of electricity.[18]

8.4.3 – Detail the county's program for re-unification

The establishment of a FAC was crucial in providing information to parents and in reunifying families during the City of Santa Monica Shooting in 2013.[37]

Reunification of victims with their families was delayed due to confusion between hospital staff and law enforcement investigators. Law enforcement should assign one person to the hospitals to clarify outstanding issues regarding patients and the investigation.[37]

In some incidents, the Red Cross participated in the LAC to provide assistance and reunification services to survivors.[40]

Best Practice Examples Public Health, Healthcare, and Emergency Medical Services

9.1 – County identified mental health support for emergency responders and frontline personnel

Emergency plans should also plan for the mental health of emergency responders and frontline personnel.[46] County Public Health and Mental Health Departments also worked closely with the Red Cross to address mental health needs and to ensure adequate services were being provided following the San Bruno explosion in 2010.[40]

9.1.1 – Detail the county's program for peer support

Beginning with the 2000 Alaska Airlines Crash, Critical Incident Stress Management (CISM) became available through local agencies. As the incident continued and expanded, additional CISM resources were available from various agency chaplains and other local and federal sources.[46] Consider bringing mental health professionals into the EOC.[18]

After the 2013 Santa Monica Shootings, Employee Assistance Program (EAP) services were made available to first responders and others affected. These services were critical to the recovery of first responders.[37]

9.2 – County identified mental health support for disaster survivors

The local government should plan to provide mental health services for disaster survivors and meet the needs of older adults, people with disabilities, and others with AFN. Some of these issues are also state and federal concerns.[16]

Anticipate the need to scale-up mental health support and crisis management services based on potential demand, which may include identifying additional wrap-around services to augment current capabilities and contracting with service providers to expand the county's ability to provide services.[18]

Assess mental health and medical resources available within the county to support the EOC, evacuation shelters, and LAC. Determine what crisis counseling and spiritual care services will be offered at the LAC. Determine what EOC activation level will require a separately designated county behavioral wellness lead in the EOC. Develop a plan to support overall health in the EOC, with considerations for mental health and overall wellness.[11]

Staff was also available at the LAC for crisis counseling and medical needs. Agencies at the LAC coordinated well, and supported decisions made when

the evacuation center transitioned to a LAC. These agencies worked together to maximize resources and were sensitive to survivors' needs and issues.[40]

Best Practice Examples for Operational Communications

10.1 – County has an Information-Sharing Plan

10.1.1 – Detail the county's program for data sharing

Data should be shared as widely and rapidly as possible once owning agencies have processed the information.[47] Counties should inventory the datasets, lists, and types of information that are commonly available and compare that information used in the EOC to validate common assumptions and identify discrepancies. This applies to but is not limited to, maps/GIS data and shelter lists.[26]

Establish a local authoritative source for data specific to home damage and classifications to address differences in the damage assessment processes and classifications between the county, CAL FIRE, Cal OES, and FEMA.[11]

It is recommended that local emergency dispatch centers in coordination with local utility companies develop and implement an automated system and/or process to transfer calls reporting power outages directly to the appropriate utility company.[15] This could reduce the stress on the Public Safety Answering Point (PSAP) and improve situational awareness.

ArcGIS is the preferred repository for sharing and accessing GIS content for Cal OES. Information on EOC Software can be found in Section 11.1.3 of this document.

10.2 – Land Mobile Radio communications

The 1989 Loma Prieta Earthquake highlighted the need to purchase a radio system that allows all response departments to communicate directly with each other.[27] Communications methods and responsibilities during incident responses among federal, state, and local agencies should be determined before emergencies and reviewed regularly.[16]

Only one tactical frequency was used during the 2020 Safe LA Civil Unrest incident, although there were multiple protest groups spread throughout the downtown area. This proved to be problematic, as too many officers tried to use the same frequency simultaneously. Counties need to ensure that it has sufficient tactical encrypted frequencies and that the UCP uses them.[33] Pre-identify radio frequencies for communications amongst all mutual aid partners and record them on an ICS-205 Communications form. This could further identify gaps and strategies for communication redundancies.[1]

Relatedly, when using the radio, Command Staff and assigned personnel need to know and use their proper and full designations so the Unified Commanders and others at the UCP can most efficiently track resources and personnel.[33]

10.2.1 – Detail the county's methods for interoperable communications in areas without reliable signal

It is a California best practice for counties to determine limitations and best practices for communication and warning methodologies during power disruption scenarios. Identify communities that are challenged with cellular services, such as rural communities.[18]

The Sonoma Department of Emergency Management suggests outreach to the lodging industry to invest in tone-coded squelch radio receivers or encourage the use of NOAA Weather Radios.[26]

During the 2012 Chips Ponderosa Fires, experts agreed there is a need to reduce or eliminate communication failures in remote areas of the State, increased use of alternative methods of communication that do not rely on a weak or interruptible signal, such as satellite phones, could be considered.[22]

The UCP and EOC should establish regular and formal communications and follow proper demobilization protocols.[32]

10.2.2 – Detail the county's program for communications training

Each agency should have staff with operational and technical knowledge of its communications systems to predict potential communications outages before they occur.[16] As a result of the 1991 East Bay Hills Fire, experts recommended that counties conduct frequent interagency radio communications exercises. All fire departments in an area should participate.[13]

10.3 – Amateur radio communications

It is a California best practice for counties to improve public emergency training using all available communications devices and technologies (survey discovered ham radio operators were important during wildfires).[7]

10.3.1 – Detail the county's program for amateur radio communications

It is recommended that every county develop and implement a plan for the use of radio amateurs. The system should provide for self-activated, automatic response coverage at all major points in the community, complete system redundancy, adequate training in the emergency role, and acceptance and integration into the emergency organization structure.[48]

Amateur "ham" radio operators have proved valuable in many disasters. In many cases, amateur radio communications are the first system in operation after a disaster, and often the most extensive system utilized.[48]

Many ham radio operators meet regularly via radio on a net to check in using their FCC-licensed call sign. These experienced communications individuals may also be members of organized groups such as Auxiliary Communications Service (ACS), Amateur Radio Relay League (ARRL), Amateur Radio Emergency Services (ARES), or Radio Amateur Civil Emergency Service (RACES). These groups can exponentially increase situational awareness during an incident.

Specific examples of amateur radio training include ARRL's ham radio training MCARCS or MendoRadio.[7]

10.3.2 – Detail region's program for amateur radio communications

It is further recommended that each regional office of emergency services develop an amateur radio capability, including radio equipment, antenna, stand-by volunteer organization, training, and recognition. If the regions are to have a true amateur radio capability, then their organization must also be self-activating and must provide for complete system redundancy.[48]

10.3.3 – Detail the community's program for amateur radio communications

Communities might benefit from gaining access to other communications systems as well. Residents of Mount Ida in Butte County are forming their own communications network. They paid for and installed their own General Mobile Radio Service (GMRS) communications repeater and hold weekly nets. Once the county sends out an alert, the community radio operators immediately re-broadcast to other radio users.

10.4 – County identifies how to integrate emerging technologies into response operations

Identify an EOC technology working group to address technology and communication issues in the EOC.[14] Consider investing in the capability to conduct drone flights and capture aerial footage. Maintain relations with the private company tasked with mapping. Formalize the recommendation of providing drone footage following major disasters for resident peace of mind and insurance substantiation.[1]

Counties should establish a routine testing schedule for aerial unit downlinks. Downlink systems that are not working properly should be fixed and retested to ensure an adequate number are operational and able to send live video downlinks to multiple receivers. Additionally, a commanding officer in an air unit can complement the downlink deployment and provide guidance and

information to Operations Section Chief and Unified Commanders.[33] The IAEM Emerging Technology Committee has a white paper on baseline technology needs and expectations of an EOC. The white paper can be found here: www.iaem.org

Best Practice Examples for Situational Assessment

11.1 – Situational Assessment Program

Following the 1991 East Bay Hills Fire, experts agreed that there was a need to plan for early information/intelligence gathering and develop procedures for sharing critical information with the EOC and external stakeholders.[13] Counties should develop a communications plan to provide accurate, timely, and verified situational awareness to elected officials, through the EOC. The plan should also include a mechanism for elected officials to communicate any critical information they gather from the community and integrate it into the common operating picture.[26]

FEMA developed the following community lifelines a suggested target for expedited information/intelligence gathering immediately after impact:

- Safety and Security
- Food, Water, and Shelter
- Health and Medical
- Energy (Power & Fuel)
- Communications
- Transportation
- Hazardous Materials

Additional information on Community Lifelines can be found at FEMA's website: FEMA Community Lifelines

11.1.1 – Detail the county's use of plain language in response operations

At the county level, situational awareness is significantly improved with robust information sharing between counties, allowing first responders to better support overall emergency response efforts.[15]

Use of common language and clear text should be applied to all responders and partnering agencies. This is necessary due to the multiple types of disciplines responding to the incident. Use of terms such as "victims", "patients", "witnesses", and "casualties" have different meanings to law enforcement, fire responders, hospital staff, and others. Inconsistent use of these terms can be confusing and lead to duplication of effort, delays in response, or other impediments to an organized operation.[37]

Abbreviations and acronyms should be limited however, it is a California best practice to spell them out the first time they are used in an emergency plan. Additionally, plans should include an abbreviation and acronym glossary as an attachment to the plan.

11.1.2 – Detail the county's use of conference calls for situational awareness

Counties should develop communications protocols, such as how to effectively use conference calls and instant messaging, to facilitate intelligence sharing and interagency coordination.[16] During the 2010 Barstow Contaminated Drinking Water incident, twice-daily conference calls were held between the county, City of Barstow, Golden State Water Company , California Department of Public Health , and Cal OES.[8]

When a supporting EOC is scheduling conference calls involving another EOC, the planning section for each EOC must coordinate with each other to avoid scheduling conflicts. Furthermore, the supporting EOC should make every effort to accommodate the EOC being supported for any kind of schedule, including but limited to deadlines for situation reports, conference calls, information meetings, etc.[22] Counties can conduct conference calls with all levels of SEMS and continually updating weather forecasts, to allow jurisdictions to better anticipate resource needs.[41]

Counties should also schedule regular information exchanges among all operational level fire and police personnel from all jurisdictions in a mutual threat zone. This could be used to discuss local procedures, authority, and automatic mutual aid agreements.[13] During the 2015 Refugio Oil Spill, regular meetings kept non-governmental organizations informed which effectively distributed updated information related to clean-up and emergency response efforts.[23]

11.1.3 – Detail the EOC's integration of situational awareness software programs

Counties must continue to try and harness technology while maintaining redundant systems if or when technology failures occur.[33]

For one county, the use of EOC software increased communication efficiency over the standard paper procedures staff used in the past. EOC staff found it much easier to send updated information to the SOC through EOC software.[28]

The use of EOC software systems can significantly improve information flow at all SEMS levels.[22] s should consider using a software application to support situational awareness and information updates through shared documentation between the EOC and UCP.[32] Systems should include all agencies and organizational structures in the EOC for situational awareness, resource requests, and incident documentation.[24]

Information shared via email was not always available to the right people at the right time during the 2017 Orange County Water Interruption because of shift work and emails going from person to person instead of being targeted to those who needed to be kept informed.[24]

11.2 – Detail the County's integration of Emergency Operations Center Action Plans into response operations

The Emergency Operations Center Action Plan (EAP) identifies incident objectives and provides essential information regarding the incident organization, resource allocation, work assignments, safety, and weather. A well-conceived, complete EAP facilitates successful incident operations and provides a basis for evaluating performance in achieving incident objectives.

Ensure all incident-related activities and services are included in the EAP.[17] Incorporate robust recovery objectives in the EAP early in the response and plan for transition to recovery to include the transfer of UCP as needed.[2] [12]

Fast-moving incidents may require an EAP for both the day and night operational periods. "These EAPs proved to be the only written planning documents created and shared with all participating agencies."[46]

Glenn County professionals suggested that [EAPs] are also useful tools for incident documentation of response activities. They suggested counties train and implement both action plans and Situation Reports[9] Additional information on EAPs can be found in FEMA's Incident Action Planning Guide.

Additional information about IAPs/EAPs can be found here: FEMA Incident Action Planning Guide

11.3 – Detail the County's integration of Situation Reports into response operations

A situation report is a form of status report which provides decision-makers and readers a quick understanding of the current situation. Starting with the ICS 202 form (or another format), the situation report should provide a clear and concise understanding of the situation. The plain language situation report should be factual while also providing meaning or context. The situation report created during the 2015 Refugio Oil Spill Incident addressed essential elements of information that can be used for other oil spill incidents.[23]

Situation reports can also serve as a form of documentation for an incident. San Mateo County submitted numerous detailed situation reports which contributed to providing real-time awareness of a rapidly changing incident to all local, regional, and State stakeholders during the San Bruno Explosion of 2010.[40]

11.4 – County's emergency plan includes Geographic Information Systems

According to a post-disaster report, Geographic Information Systems (GIS) provided an invaluable tool for maintaining, displaying, and analyzing disaster data generated during several incidents, including the Northridge earthquake in 1994.[49]

11.4.1 – Detail the county's GIS data sharing program

Consider developing an inventory and associated GIS map of cultural assets to ensure the protection of those assets during response and recovery operations.[11]

Ranked preferences for GIS Data Sharing Standards

1) ArcGIS Online Web Services
2) Open-Source GIS Web Services
3) File Geodatabase
4) Shapefile
5) KML/KMZ

It is recommended that counties organize GIS data by disaster type, to facilitate easy access during an emergency: Cal OES GIS Data Hub (CA Governor's Office of Emergency Services Public Data Hub (arcgis.com))

Counties should work with key stakeholders to establish a system to collect and coordinate existing local, state, and federal GIS resources. Counties should establish a methodology to overlay hazard information on current topographic, demographic, facilities, and other information. GIS analysts need to develop protocols and linkages among different levels of government.[16]

GIS is most effective when activated immediately following a disaster. This requires developing or importing existing data sets for each region, establishing data standards and formats that can be used by all agencies participating in the disaster response and recovery process, and ensuring that technical staff required to operate the system are identified and trained statewide."[49]

Continue efforts of the county-wide GIS working group to coordinate databases and improve the overall quality of GIS maps.[11]For example, during the 2012 Chips Ponderosa Fires, a utility provided the UCP with detailed mapping of gas and power line locations within the fire threatened areas. The utility worked directly with the UCP, demonstrating the importance of public-private coordination down to the field level.[22]

Establish protocols for the consistent and effective sharing of incident information, geographic data, and projections of expected incident activity

(including potential areas of evacuation) between the UCP and the county. Evaluate the use of a county-wide "GIS Cooperative" or "Joint Geospatial Information System" model to coordinate and share data and resources (Sacramento County GIS Cooperative is an example). For major fire incidents, consider incorporating local GIS into the UCP to support mapping and alert and warning.[26]

11.4.2 – GIS for inclusion

Community members in San Francisco indicated it would be helpful to map each NGO's targeted community engagement areas to identify potential gaps in services. Sonoma County community members participated in "Map Your Neighborhood" programs and indicated that they can be effective.

GIS can also be used to expand cultural competence and inclusion. Following the 1998 floods, experts agreed that GIS could be used to provide demographic information.[50]

11.4.3 – Detail the county's use of GIS in the EOC

Ensure procedures within the EOC are streamlined and enforced to support requests for GIS maps, including the use of ICS forms to process requests (e.g., ICS Form 213). Continue efforts to pre-identify and prepare commonly requested GIS maps for use within the EOC.[11]

Provide a means by which local emergency management professionals can look up relevant response information without having to wait for standard reporting cycles.[10]

11.4.4 – Detail the county's use of GIS in the field

During the 2017 winter storms, the Yolo Operational Area Office of Emergency Services was able to test GIS tools in the field which has led to an aggressive GIS initiative to better assess the vulnerabilities of critical infrastructure and facilities throughout the Yolo County.[10]

Develop tools and methods to facilitate tactical planning, track the progress of operations, and share situational awareness to strengthen coordination among those involved.[12]

11.4.5 – Detail the county's use of GIS for evacuation

South Carolina created a Know Your Zone campaign with a website to assist individuals in identifying their evacuation map zones. Additional information can be found at www.hurricane.sc/know-your-zone

The Home Page of El Dorado County's website (www.edcgov.us) has a GIS map of open/closed roads. During a disaster, this map is scaled up to include areas that are under evacuation and which shelter sites are open, in real-time.

Coordinate with the PIO to confirm workflows for review, approval, and release of GIS products to support emergency public information and warning.[11] Work with cities to integrate the new road closure template used by the county into their GIS environments. Develop GIS accounts for the Google and Waze community portals to make real-time adjustments to published maps. Know that publishing alerts on Nixle will also provide real-time information to Google and Ring services.[10]

Attachment A – Acronyms, Abbreviations, and Terms

AAR	After Action Reports
ACS	Auxiliary Communications Service
AFN	Access and Functional Needs
ARES	Amateur Radio Emergency Services
ARRL	Amateur Radio Relay League
ASL	American Sign Language
Cal OES	California Governor's Office of Emergency Services
CBO	Community-Based organizations
CBRNE	Chemical, Biological, Radiological, Nuclear, and Explosive
CDFA	California Department of Food and Agriculture
CDPH	California Department of Public Health
CEMP	Comprehensive Emergency Management Plan
CERT	Community Emergency Response Team
CIKR	Critical Infrastructure and Key Resources
CISM	Critical Incident Stress Management
COG	Continuity of Government
COOP	Continuity of Operations
COVID-19	Coronavirus Disease Identification 19 (2019 novel coronavirus)
CPG	Comprehensive Preparedness Guide
CUEA	California Utilities Emergency Association
CVMA	California Veterinary Medical Association
DRI	Disaster Response Interpreter
DHS	Department of Homeland Security
DSW	Disaster Service Worker
EAP	Emergency Operations Center Action Plans
EAP	Employee Assistance Program
EMAP	Emergency Management Accreditation Program
EMP	Emergency Management Plan
EOC	Emergency Operations Center
EOP	Emergency Operations Plan
ESA	Emergency Services Act
ESF	Emergency Support Function
EVC	Emergency Volunteer Centers
FAST	Functional Assessment Service Team
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FTE	Full-Time Equivalent
GC	Government Code
GIS	Geographic Information Systems
GMRS	General Mobile Radio Service
GSWC	Golden State Water Company

HIRA	Hazard Identification and Risk Assessment
HMP	Hazard Mitigation Plan
HVA	Hazard Vulnerability Analysis
ICS	Incident Command System
JIC	Joint Information Center
LAC	Local Assistance Center
LDC	Local Disaster Council
MARAC	Mutual Aid Regional Advisory Council
MOU	Memorandum of Understanding
NFPA	National Fire Protection Association
NGO	Non-Governmental Organization
NIMS	National Incident Management System
NWCG	National Wildfire Coordinating Group
PDA	Preliminary Damage Assessment
PG&E	Pacific Gas & Electric
PIO	Public Information Officers
PSAP	Public Safety Answering Point
RACES	Radio Amateur Civil Emergency Service
REOC	Regional Emergency Operations Center
RSF	Recovery Support Function
SEMS	Standardized Emergency Management System
SOC	Standard of Cover Plan
THIRA	Threat and Hazard Identification and Risk Assessment
UASI	Urban Area Security Initiative
UC	University of California
UC	Unified Command
UCP	Unified Command Post
VOAD	Voluntary Organization Active in Disaster
WCPG	Whole Community Planning Guidance

Attachment B – Authorities and References

State Laws

- AB 477 (Cervantes, Chapter 218, 2019) Vulnerable Populations
- AB 2311 (Brown, Chapter 520, 2016) Access and Functional Needs
- AB 2968 (Rodriguez, Chapter 275, 2020) Best practices for county emergency plans
- AB 2386 (Bigelow, Chapter 254, 2020) Cal OES review of local emergency plans
- SB 160 (Jackson, Chapter 402, 2019) Cultural Competence

Federal Guidance

- National Preparedness Goal, Second Edition September 2015 FEMA National Preparedness Goal
- FEMA Website FEMA Mission Core Capabilities
- National Response Framework, Fourth Edition, October 28, 2019 FEMA National Preparedness Frameworks
- FEMA, Developing and Maintaining Emergency Operations Plans, Comprehensive Preparedness Guide (CPG) 101

After Action Reports (AAR) Reviewed and References Cited

Best practices, lessons learned, recommendations, and corrective actions were reviewed in each of the following AARs as reference for Best Practices for County Emergency Plans:

[1]AAR: Butte County Camp Fire AAR, 2018
[2]AAR: Alaskan Earthquake, 1964
[3]AAR: San Simeon Earthquake, 2003
[4]AAR: Baja Earthquake, 2012
[5]Reference: Legal Dictionary/Senior Citizens
[6]Reference: "Older Americans Act" National Committee to Preserve Social Security & Medicare
[7]AAR: Northern California Firestorm – Telecommunications Outage Report, 2017
[8]AAR: Barstow Contaminated Drinking Water, 2010
[9]AAR: California Drought, 2014
[10]AAR: Yolo County Winter Storms AAR, 2017
[11]AAR: Santa Barbara County Thomas Fire AAR, 2017
[12]AAR: LAX Shooting Report, 2013
[13]AAR: East Bay Hills Fire, 1991
[14]AAR: Ventura County Thomas Fire AAR, 2017
[15]AAR: Severe March Storms, 2011
[16]AAR: Southern California Fires, 2003
[17]AAR: Orange County Santiago Fire AAR, 2007
[18]AAR: Sonoma County PSPS, 2019
[19]AAR: Hurricane Hugo, 1989
[20]AAR: Oroville Spillway Incident (February), 2017
[21]AAR: Aliso Canyon Gas Leak, 2015
[22]AAR: Chips Ponderosa Fires, 2012
[23]AAR: Refugio Oil Spill, 2015
[24]AAR: Orange County Water Interruption ARR, 2017
[25]AAR: Statewide December Storms, 2014
[26]AAR: Kincaid Fire AAR, 2019
[27]AAR: Loma Prieta Earthquake, 1989
[28]AAR: Fire Season, 2014
[29]AAR: Lessons Learned from the California 2020 Wildfire Season, 2020
[30]AAR: Southern California Fires, 2008
[31]AAR: Southern California Fires, 2007
[32]AAR: LA World Airport Power Outage AAR, 2019
[33]AAR: Safe LA Civil Unrest AAR, 2020
[34]AAR: Humboldt Earthquake (January), 2010
[35]AAR: Los Angeles Wildfires, 2009
[36]AAR: Upper Jones Tract Flood, 2004
[37]AAR: City of Santa Monica Shooting AAR, 2013
[38]AAR: Mid-Year California Fires, 2008

[39]AAR: Cosco Busan San Francisco Bay Area Oil Spill, 2009
[40]AAR: San Bruno Explosion, 2010
[41]AAR: Statewide Winter Storms (January), 2010
[42]AAR: Napa Earthquake, 2014
[43]AAR: Fire Season, 2013
[44]AAR: December Floods, 1996
[45]Reference: Cal OES A Guide for Establishing a Local Assistance Center
Assistance Center
[46]AAR: Alaska Airlines Crash, 2000
[47]AAR: Golden Guardian Exercise, 2005
[48]AAR: Halls Valley – Morgan Hill Earthquake, 1984
[49]AAR: Northridge Earthquake, 1994
[50]AAR: Floods, 1998

Whole Community Meetings

Listos CA, in conjunction with Cal OES, facilitated the following twenty-three, two (2)-hour community meetings between October and December 2020, to identify best practices for county emergency plans:

DATE	COUNTY		DATE	COUNTY
10/07/20	Lake County		11/16/20	Mendocino County
10/08/20	Solano County		11/18/20	Fresno County
10/22/20	San Diego County		11/24/20	Monterey County
10/23/20	San Francisco County		12/02/20	Santa Cruz County
10/26/20	Siskiyou County		12/03/20	Napa County
10/30/20	Alameda County		12/08/20	Butte County
11/02/20	Shasta County		12/09/20	Trinity County
11/02/20	Nevada County		12/11/20	Madera County
11/04/20	San Bernardino County		12/15/20	El Dorado County
11/05/20	Tulare County		12/16/20	Glenn County
11/06/20	Sonoma County		12/18/20	Tehama County
11/13/20	Riverside County			

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Attachment C – List of Hazards/Threats

There is no one single way of identifying hazards/threats which may impact a community; however, the following illustrates basic hazards/threats listed in various emergency management standards.

Hazards/Threats counties should consider planning for:

- Active Assailant (Active Shooter, Active Intruder, Vehicular Attack)
- Air Quality Emergency (Wildfire Smoke, Toxic Plume)
- Artificial Intelligence (AI) Attack
- CBRNE – Chemical, Biological, Radiological & Nuclear, and Explosive
- Civil Disturbance/Civil Unrest
- Conflagration
- Cyber Attack
- Dam/Levee Failure
- Debris Flow
- Drought/Water Shortage
- Earthquake
- Extreme Temperatures (Heat and Cold)
- Flood (Riverine Flood, Flash Flood, Seiche, Tidal Surge, Ice Jam, Log Jam)
- Hazardous Materials Incident
- Infectious Disease (Pandemic, Epidemic, and Communicable Diseases)
- Invasive Species
- Land Movement (Landslide, Liquefaction, Mudslide, Subsidence)
- Space Weather (Geomagnetic storm and Electromagnetic Pulse (EMP))
- Transportation Accidents (Water, Air, Rail, Road)
- Tsunami
- Utility Interruption (Telephone/Wireless, Natural Gas, Electric, and Internet)
- Visibility Interruption (Smoke, Fog, Ash, Temperature Inversion)
- Volcano
- Wildland Fire
- Windstorm (Tropical Cyclone, Hurricane, Tornado, Waterspout, Dust storm, Sandstorm)
- Winter Storm (Snow, Ice, Hail, Sleet, Avalanche, Arctic Freeze)

Other (Operational/Functional) scenarios to consider planning for:

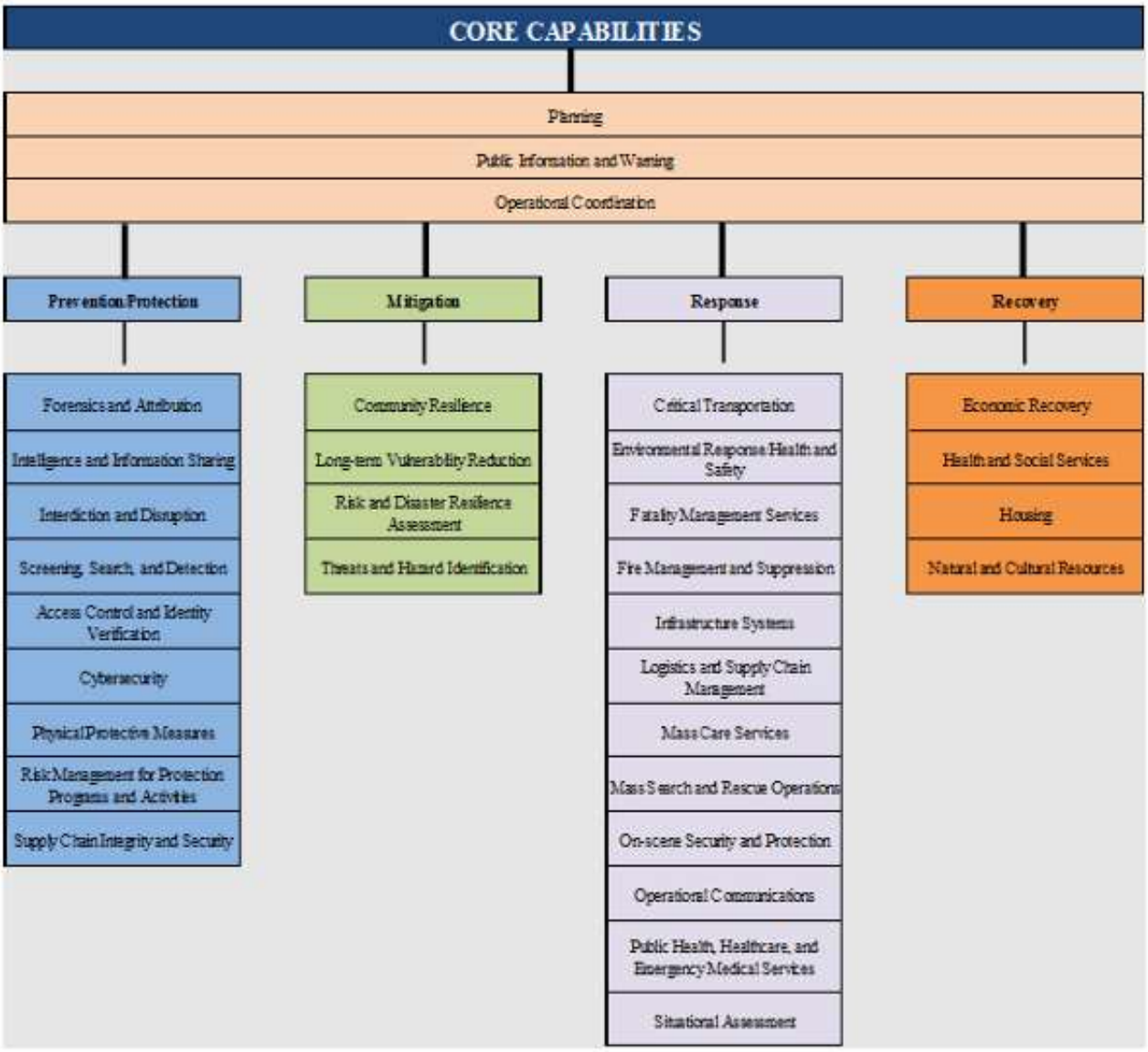
- Communications Outage Plan (cellular, internet)
- Damage Assessment Plan
- Electric Power Disruption Plan
- Evacuation & Re-Entry Plan
- Feeding of Mass Populations Plan
- Fueling/Re-Fueling Plan
- Line of Duty Death (LODD)/Untimely Employee Death Plan

- Local Assistance Center (LAC) Plan
- Mass Care and Shelter (Human & Animal) Plan
- Mass Casualty Incident/Surge Plan
- Mass Fatality (Human & Animal) Plan
- Mutual Aid Plan (EMS, Fire, Law, OES, Public Health, etc.)
- Points of Dispensing (PODs) Plan
- Public Alert & Warning System (PAWS) Plan
- Search & Rescue
- Volunteer & Donations Management Plan

Attachment D – Explanation of Core Capabilities

Core Capabilities

FEMA has identified 32 Core Capabilities that every community should seek to build as a foundation for their emergency management program. Core Capabilities should be considered when creating/revising/updating an EOP.



Mission Areas

Each Core Capability falls under one or more "mission areas." Ensuring resilience in a community requires effective preparation and planning for operations in all mission areas of a disaster.

SEMS lists the "Phases of Comprehensive Emergency Management" as

- Mitigation
- Preparedness
- Response
- Recovery

However, the National Preparedness Goal (Second Edition September 2015) update to NIMS removed Disaster Phases and instead, now calls them the five mission areas:

- Prevention
- Protection
- Mitigation
- Response
- Recovery

Preparedness is a concept that should be integrated into all five mission areas.

Best practices in this document are separated into the following core capabilities under the response mission are. They are defined as such:

Planning
Conduct a systematic process engaging the whole community as appropriate in the development of executable strategic, operational, and/or community-based approaches to meet defined objectives.

Public Information and Warning
Deliver coordinated, prompt, reliable, and actionable information to the whole community with clear, consistent, accessible, and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard, as well as the actions being taken and the assistance being made available, as appropriate.

Operational Coordination
Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.

Critical Transportation
Provide transportation (including infrastructure access and accessible transportation services) for response priority objectives, including the evacuation of people and animals, and the delivery of vital response personnel, equipment, and services into the affected areas.

Infrastructure Systems
Stabilize critical infrastructure functions, minimize health and safety threats, and efficiently restore and revitalize systems and services to support a viable, resilient community.

Logistics and Supply Chain Management
Deliver essential commodities, equipment, and services in support of impacted communities and survivors, including emergency power and fuel support, as well as the coordination of access to community staples. Synchronize logistics capabilities and enable the restoration of impacted supply chains.

Mass Care Services
Provide life-sustaining and human services to the affected population, including hydration, feeding, sheltering, temporary housing, evacuee support, reunification, and distribution of emergency supplies.

On-scene Security and Protection
Ensure a safe and secure environment through law enforcement and related security and protection operations for people and communities located within affected areas and for all traditional and atypical response personnel engaged in lifesaving and life-sustaining operations.

Operational Communications
Ensure the capacity for timely communications in support of security, situational awareness, and operations by any means available, among and between affected communities in the impact area and all response forces.

Situational Assessment
Provide all decision-makers with decision-relevant information regarding the nature and extent of the hazard, any cascading effects, and the status of the response.

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Attachment E – Best Practices Planning Checklists

Best Practices Checklist for Planning

The following are California Best Practices for counties:

- ☐ 1.1 – County has a current, approved base emergency plan (i.e., Emergency Operations Plan)
- ☐ 1.2 – County emergency plan was created in collaboration with the whole community
  - 1.2.1 – Detail the integration of communities with Access and Functional Needs (AFN)
  - 1.2.2 – Detail the integration of communities' cultural competence
  - 1.2.3 – Detail the integration of communities with intellectual, cognitive, and physical disabilities
  - 1.2.4 – Detail the integration of communities of older adults
  - 1.2.5 – Detail the integration of transportation disadvantaged communities
  - 1.2.6 – Detail the integration of underserved populations
  - 1.2.7 – Detail the integration of unhoused communities
- ☐ 1.3 – County emergency plan is consistent with standard best practices
  - 1.3.1 – Demonstrate that the county's emergency plan is consistent with FEMA's Comprehensive Preparedness Guide (CPG) 101
  - 1.3.2 – Demonstrate that the county's emergency plan is consistent with California best practices
  - 1.3.3 – Demonstrate that the county's emergency plan is consistent with industry standards and best practices
  - 1.3.4 – Demonstrate that the county's emergency plan is consistent with Cal OES Emergency Operations Plan (EOP) Crosswalk
- ☐ 1.4 – County conducted a Hazard Vulnerability Analysis (HVA) and included results in the emergency plan
  - 1.4.1 – Identify Hazards/Threats which could potentially impact the county
  - 1.4.2 – Detail the county's highest estimated risks & impacts
- ☐ 1.5 – County identified how the emergency plan intersects horizontally with other emergency plans in the county
  - 1.5.1 – Detail intersection with General Plan
  - 1.5.2 – Detail intersection with Hazard Mitigation Plan
  - 1.5.3 – Detail intersection with Disaster Recovery Plan
  - 1.5.4 – Detail intersection with Cybersecurity Plan
- ☐ 1.6 – County identified roles & responsibilities of Advance Planning
- ☐ 1.7 – County identified the Continuity of Operations (COOP) plan for emergency management
  - 1.7.1 – Detail COOP roles & responsibilities
  - 1.7.2 – Detail program for continuity of Personnel

- 1.7.3 - Detail program for continuity of Facilities
- 1.7.4 – Detail program for testing, training, and exercising COOP plan

- 1.8 – County has a regular update cycle for the emergency plan
  - 1.8.1 – Detail the maintenance cycle for the county's emergency plan
  - 1.8.2 – Detail the program for testing, training, and exercising the county's emergency plan

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Public Information and Warning

The following are California Best Practices for the county:

- ☐ 2.1 – County has a current, approved public information plan
  - 2.1.1 – Detail the county's community communications and engagement strategy
  - 2.1.2 – Detail the county's Public Information Office (PIO) roles & responsibilities
  - 2.1.3 – Detail the county's use of a PIO Team, if applicable
  - 2.1.4 – Detail the county's Joint Information Center (JIC) roles & responsibilities
  - 2.1.5 – Detail the county's JIC location and pre-identified equipment needs
  - 2.1.6 – Detail the county's use of the Joint Information System (JIS), if applicable
- ☐ 2.2 – The county public information plan was created in collaboration with the whole community
  - 2.2.1 – Detail the county's collaboration with the Whole Community Planning Team (WCPT)
  - 2.2.2 – Detail county's workflow for providing accessible, two-way social media communications with the public
- ☐ 2.3 – County has a current, approved Alert and Warning plan
  - 2.3.1. – Demonstrate that plan is consistent with California Standard Statewide Evacuation Terminology
  - 2.3.2 – Detail the county's public notification systems
  - 2.3.3 – Detail the county's program for residents and visitors to sign up for emergency alerts
- ☐ 2.4 – County Alert and Warning plan was created in collaboration with the whole community
  - 2.4.1 – Detail the integration of communities with Access and Functional Needs (AFN) into the Alert and Warning plan
  - 2.4.2 – Detail the integration of communities' cultural competence into the Alert and Warning plan
  - 2.4.3 – Detail the integration of communities with intellectual, cognitive, and physical disabilities
  - 2.4.4 – Detail the integration of communities with older adults
  - 2.4.5 – Detail the integration of transportation disadvantaged communities
  - 2.4.6 – Detail the integration of underserved populations
  - 2.4.7 – Detail the integration of unhoused communities

- 2.5 – County pre-identified messages for the primary hazards/threats impacting the county
    - 2.5.1 – Identify pre-scripted messages for Animal-related disaster information

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Operational Coordination

The following are California Best Practices for the county:

- ☐ 3.1 – County identified EOC activation criteria
- ☐ 3.2 – County has a program to pre-identify EOC Staff
  - 3.2.1 – Detail the county's program for staffing the EOC
- ☐ 3.3 – County has a program for training personnel on SEMS/NIMS/ICS
  - 3.3.1 Detail training program for First Responders
  - 3.3.2 – Detail training program for UCP Staff
  - 3.3.3 – Detail training program for EOC Staff
  - 3.3.4 – Detail training program for EOC Sections Chief
  - 3.3.5 – Detail training program for county Agency Representatives
  - 3.3.6 – Executive Policy Group and Elected Officials
- ☐ 3.4 – County identifies interfaces with the county's EOC
  - 3.4.1 – Detail interface between the county's EOC and the Unified Command Post (UCP)
  - 3.4.2 – Detail interface between the county's EOC First Responders
  - 3.4.3 – Detail interface between the county's EOC and Special Districts
  - 3.4.4 – Detail interface between the county's EOC and Cities
  - 3.4.5 – Detail interface between county's EOC and Tribal Nations
  - 3.4.6 – Detail interface between county's EOC and the California National Guard (CNG)
- ☐ 3.5 – County has clearly defined minimum acceptable criteria for establishing a UCP
  - 3.5.1 – Pre-identify potential UCP locations
  - 3.5.2 – Pre-identify equipment and supplies needed to activate a UCP
  - 3.5.3 – Pre-identify UCP and representation
  - 3.5.4 – UCP Roles & Responsibilities
  - 3.5.5 – Detail the span of control during complex incidents
- ☐ 3.6 – County has clearly defined minimum acceptable criteria for establishing an EOC Facility
  - 3.6.1 – Identify the county's primary EOC location
  - 3.6.2 – Detail accessibility of the county's EOC
  - 3.6.3 – Detail the county's EOC backup power capabilities
  - 3.6.4 – County's alternate EOC location

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Critical Transportation

The following are California Best Practices for the county:

- ☐ A county evacuation plan was created in collaboration with the whole community
  - Detail the integration of cultural competence into evacuation/transportation services
  - Detail the integration of Individuals with intellectual, cognitive, and physical disabilities into evacuation/transportation services
  - Detail the integration of transportation disadvantaged individuals into evacuation/transportation services
  - Detail the integration of underserved populations into evacuation/transportation services
  - Detail the integration of unhoused individuals into evacuation/transportation services
- ☐ 4.1 – County has a current, approved evacuation plan
  - 4.1.1 – Plan is consistent with Standard Statewide Evacuation Terminology
  - 4.1.2 – Plan includes Temporary Evacuation Points (TEPs)
  - 4.1.3 – Plan includes workflow showing pre-identified triggers for evacuation warning/order
  - 4.1.4 – Plan includes workflow showing pre-identified triggers for evacuation warning/order
- ☐ 4.2 – County has a current, approved re-entry/re-population plan
  - 4.2.1 – Plan includes workflow showing pre-identified triggers for re-entry/re-population
  - 4.2.2 – County re-entry/re-population plan was created in collaboration with the whole community

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Fatality Management

The following are California Best Practices for County:

- ☐ 5.1 – County has a current plan for fatality management
  - 5.1.1 – Detail program for remains recovery.

Acronyms, Abbreviations, and Terms can be found in Attachment A

Best Practices Checklist for Infrastructure Systems

The following are California Best Practices for County:

- ☐ 6.1 – County has a current response plan for critical facilities and infrastructure
- ☐ 6.2 – County has a current Damage Assessment plan
    - 6.2.1 – Identify the roles & responsibilities of damage assessment teams
    - 6.2.2 – Identify training for damage assessment teams

Acronyms, Abbreviations, and Terms can be found in Attachment A

Best Practices Checklist for Logistics and Supply Chain Management

The following are California Best Practices for County:

- ☐ 7.1 – County has a current resource request program
  - 7.1.1 – Detail the county's resource request program
  - 7.1.2 – Detail UCP resource request program
  - 7.1.3 – Detail city and special district resource request program
  - 7.1.4 – Detail out-of-county resource request program
  - 7.1.5 – Detail the private sector/NGO resource request program
  - 7.1.6 – Detail evacuation resources available to the county
- ☐ 7.2 – County has a current mutual aid plan
  - 7.2.1 – Detail the county's resource deployment program
  - 7.2.2 – Detail the county's resource arrival program
  - 7.2.3 – Detail the county's resource staging program
  - 7.2.4 – Detail the county's resource demobilization program
  - 7.2.5 – Detail county's resource scalability program
  - 7.2.6 – Detail the county's Emergency Management Mutual Aid (EMMA) program
  - 7.2.7 – Detail the county's Law Enforcement Mutual Aid (LEMA) program
- ☐ 7.3 – Resource management plan coordinates with Emergency Support Functions (ESFs)
  - 7.3.1 – Detail the role of an Agency Representative vs. ESF Coordinator
  - 7.3.2 – Detail the roles & responsibilities of each ESF Coordinator
  - 7.3.3 – Detail how the county ESFs integrate with state and federal ESFs
- ☐ 7.4 – County resource management program coordinates with Non-Governmental Organizations (NGO) and private sector resources
- ☐ 7.5 – County has current plan volunteers and donations management plan
  - 7.5.1 – Detail the county's volunteer engagement program
  - 7.5.2 – Detail the county's Just-in-Time (JIT) Volunteer program
  - 7.5.3 – Detail the county's public information strategy about acceptable donations
  - 7.5.4 – Detail the county's program for handling physical donations
  - 7.5.5 – Detail the county's program for handling financial donations
  - 7.5.6 – Detail the county's volunteer and donations management tool
- ☐ 7.6 – Commodities Points of Distribution/Dispensing (PODs)
  - 7.6.1 – Detail POD roles and responsibilities
  - 7.6.2 – Pre-identified locations which could potentially be used as a POD

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Mass Care Services

The following are California Best Practices for the county:

- ☐ 8.1 – County has a current shelter plan
  - 8.1.1 – Detail the county's mass care and shelter roles and responsibilities
  - 8.1.2 – Detail the county's training program for shelter staff
- ☐ 8.2 – County shelter plan was created in collaboration with the whole community
  - 8.2.1 – Detail the integration of cultural competence into mass care services
  - 8.2.2 – Detail the integration of Individuals with intellectual, cognitive, and physical disabilities into mass care services
  - 8.2.3 – Detail the integration of transportation disadvantaged individuals into mass care services
  - 8.2.4 – Detail the integration of underserved populations into mass care services
  - 8.2.5 – Detail the integration of unhoused individuals into mass care services
- ☐ 8.3 – County shelter plan includes pets and large animals (i.e., domestic and livestock)
- ☐ 8.4 – County plan details the Local Assistance Center (LAC) program
  - 8.4.1 – Identify the county's roles and responsibilities for a LAC
  - 8.4.2 – Detail the county's pre-identified LAC locations
  - 8.4.3 – Detail the county's program for re-unification

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practice Examples Public Health, Healthcare, and Emergency Medical Services

The following are California Best Practices for the county:

- 9.1 – County identified mental health support for emergency responders and frontline personnel
  - 9.1.1 – Detail the county's programs for peer support
- 9.2 – County identified mental health support for disaster survivors

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Operational Communications

The following are California Best Practices for the county:

- ☐ 10.1 – County has an information-sharing plan
  - 10.1.1 – Detail the county's program for data sharing
- ☐ 10.2 – Land Mobile Radio (LMR) communications
  - 10.2.1 – Detail the county's methods for interoperable communications in areas without reliable signal (i.e., rural areas) (as appropriate)
  - 10.2.2 – Detail the county's program for communications training
- ☐ 10.3 – Amateur radio communications
  - 10.3.1 – Detail the county's program for amateur radio communications
  - 10.3.2 – Detail region's program for amateur radio communications
  - 10.3.3 – Detail the community's program for amateur radio communications
- ☐ 10.4 – County identifies how to integrate emerging technologies into response operations

Acronyms, Abbreviations, and Terms can be found in Attachment A.

Best Practices Checklist for Situational Assessment

The following are California Best Practices for the county:

- 11.1 – Situational Assessment program
  - 11.1.1 – Detail the county's use of plain language in response operations
  - 11.1.2 – Detail the county's use of conference calls for situational awareness
  - 11.1.3 – Detail the EOC's integration of situational awareness software programs
- 11.2 – Detail the county's integration of Incident Action Plans (EAPs) into response operations
- 11.3 – Detail the county's integration of situation reports into response operations
- 11.4 – County's emergency plan includes Geographic Information Systems (GIS)
  - 11.4.1 – Detail the county's GIS data sharing program
  - 11.4.2 – GIS for inclusion
  - 11.4.3 – Detail the county's use of GIS in the EOC
  - 11.4.4 – Detail the county's use of GIS in the field
  - 11.4.5 – Detail the county's use of GIS for evacuation

Acronyms, Abbreviations, and Terms can be found in Attachment A.

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Attachment F - List of California Specialized Training Institute (CSTI) Courses – By Capability

Planning:

G235 Emergency Planning, G626 EOC Action Planning, Emergency Management Concepts, G205 Recovery from Disasters, G358- Evac and Re-Entry, G288/489 Volunteer and Donations Management

Public Information and Warning:

G290 Basic PIO, G291 Joint Information System, Intermediate PIO, L0105 PIO Basics, L0388 Advanced PIO, MR-Media Relations

Operational Coordination:

Emergency Management Concepts, G191 ICS/EOC Interface, G775 EOC Management, G626 EOC Action Planning, G611 Series, EOC Section Intermediate Series

Critical Transportation:

G611 Operations, EOC Section Intermediate: Operations, G557 Rapid Needs Assessment, Emergency Management Concepts, G191 ICS/EOC Interface, G775 EOC Management, G626 EOC Action Planning, Evacuation, and Re-entry Planning Course G358

Infrastructure Systems:

G611 Operations, EOC Section Intermediate: Operations, G557 Rapid Needs Assessment, Emergency Management Concepts, G191 ICS/EOC Interface, G775 EOC Management, G626 EOC Action Planning, AWR 213 Critical Infrastructure Security and Resilience Awareness, L0550 Continuity of Operations Planning, L0557 Mission Essential Functions Workshop – Continuity Guidance, MGT 315 Critical Asset Risk Management, MGT 414 Advanced Critical Infrastructure Protection Course

Logistics and Supply Chain Management:

G611 Logistics, EOC Section Intermediate: Logistics, G557 Rapid Needs Assessment, G191 ICS/EOC Interface, G775 EOC Management, G626 EOC Action Planning, L0675 Basic Interagency Logistics, L0660 Federal Staging Area

Mass Care Services:

G418 Mass Care Emergency Assistance

Operational Communications:

G290 Basic PIO, G291 Joint Information System, Intermediate PIO, L0105 PIO Basics, L0388 Advanced PIO, MR-Media Relations

Situational Assessment:

G557 Rapid Assessment, G191 ICS/EOC Interface, G775 EOC Management, G626 EOC Action Planning

- Please visit California Specialized Training Institute (CSTI) for more information: Train CSTI

State of California

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Support

CDFA Home / AHFSS / AHB / EPRS / CARES

NEW! **Senior Emergency Services Coordinator Job Opening**

California Animal Response Emergency Support (CARES)

The CARES Unit resides within the Emergency Preparedness and Response Section of the Animal Health Branch in the Animal Health and Food Safety Services Division of CDFA. The CARES Unit provides assistance to the California Emergency Support Function 11 Food and Agriculture. To meet animal disaster related responsibilities, CDFA leverages the CARES Unit to coordinate State agency response in support of local government and with the assistance of volunteer organizations. CARES is structured in accordance with the Standardized Emergency Management System (SEMS) and National Incident Management System (NIMS).

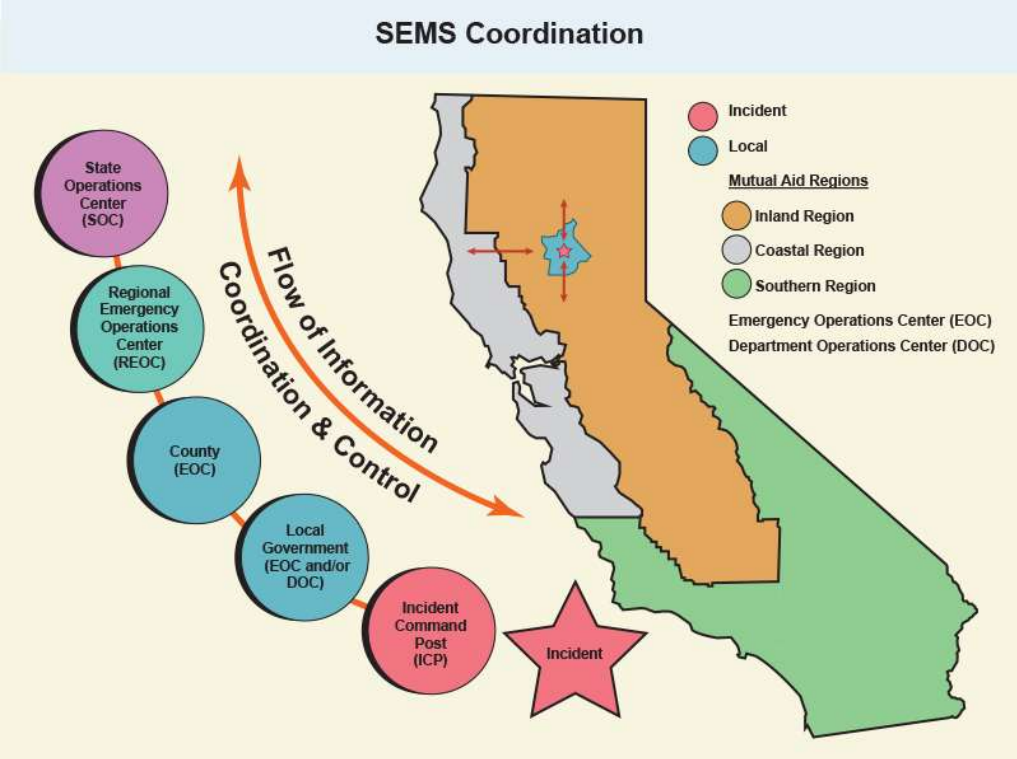
Our Mission

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- Animal Shelter Information
- Fairgrounds MOU Example
- Pets on Public Transport
- Local Government Emergency Management and Non-governmental Organization MOU sample
- Local Government Emergency Management and Non-governmental Organization MOU/MOA sample
- Local Government Emergency Animal Shelter Assessment Form
- 2023 NASAAEP Disaster Veterinary Medical Response Best Practices

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- NEW! Livestock Poultry Resources
- NEW! Farm/Ranch Multi-hazard Emergency Plan Guide
- Protecting Livestock from Extreme Heat
  - En español
- Livestock Agricultural Pass Program
  - En español
- Pet Disaster Evacuation Plan
  - En español
- Pet Disaster Evacuation Kit
  - En español

Pets and Mental Health

En español

CARES Fact Sheet: Resources Available to Livestock Producers

CARES Pet First-Aid Kit Checklist

En español

CARES Pet First-Aid Kit Coloring Page

En español

Disaster Preparedness for Horse Owners

Disaster Preparedness for Livestock Owners

Flooding & Equine Owners

Flooding & Livestock Owners

Equine Disaster Preparedness

Evacuating Horses During an Emergency

En español

Flood Evacuation Checklist for a Dairy

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MINUTES

COMMISSION ON STATE MANDATES

Department of Social Services Building
744 P Street, First Floor, Auditorium
Sacramento, California
March 29, 2006

Present: Member Anne Sheehan, Chairperson
Representative of the Director of the Department of Finance
Member Nicholas Smith, Vice Chairperson
Representative of the State Controller
Member Francisco Lujano
Representative of the State Treasurer
Member Sue Blake
Representative of the Director of the Office of Planning and Research
Member Paul Glaab
City Council Member
Member Sarah Olsen
Public Member

Absent: Member J. Steven Worthley
County Supervisor

CALL TO ORDER AND ROLL CALL

Chairperson Sheehan called the meeting to order at 10:02 a.m.

APPROVAL OF MINUTES

Item 1 January 26, 2006

Upon motion by Member Smith and second by Member Olsen, the minutes were unanimously adopted.

PROPOSED CONSENT CALENDAR

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

AMEND PARAMETERS AND GUIDELINES BASED ON STATUTES 2004, CHAPTER 316, (AB 2851)

Item 10 *Sex Offenders: Disclosure by Law Enforcement Officers (Megan's Law),*
04-RL-9715-06 (97-TC-15)
Penal Code Sections 290 and 290.4
Statutes 1996, Chapters 908 (AB 1562) and 909 (SB 1378), Statutes 1997, Chapters 17 (SB 947), 80 (AB 213), 817 (AB 59), 818 (AB 1303), 819 (SB 314), 820 (SB 882), 821 (AB 290) and 822 (SB 1078), Statutes 1998, Chapters 485 (AB 2803), 550 (AB 2799), 927 (AB 796), 928 (AB 1927), 929 (AB 1745) and 930 (AB 1078)

Member Glaab moved for adoption of the proposed consent calendar, which consisted of item 10. With a second by Member Olsen, the proposed consent calendar was unanimously adopted.

APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181, SUBDIVISION (c)

Item 3 Staff Report (if necessary)

No appeals were filed.

Paula Higashi, Executive Director, swore in the parties and witnesses participating in the hearing of the test claim agenda items.

HEARINGS AND DECISIONS ON TEST CLAIMS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (Gov. Code, § 17551) (action)

Item 4 *Fire Safety Inspections of Care Facilities*, 01-TC-16
Health and Safety Code Sections 1531.2, 1569.149, 1596.809, 13144.5, and 13235
Statutes 1989, Chapter 993 (SB 1098)
City of San Jose, Claimant

Deborah Borzelleri, Commission Counsel, presented this item. She stated that the test claim addresses amendments to the Health and Safety Code regarding fire safety inspections for certain community-care facilities. The purpose of the legislation was to ensure that these particular facilities receive timely and correct fire clearance information from the fire enforcing agency during the process of being licensed by the Department of Social Services.

Ms. Borzelleri noted that the Office of the State Fire Marshal establishes statewide regulations and procedures for these types of fire inspections; and where no local fire enforcing agency exists, the State Fire Marshal carries out the inspections themselves. She indicated that depending on the size of the facility, fees of $50 or $100 are allowed for pre-inspections. However, the claimant contended that these fees were insufficient to cover the cost of the inspections.

Ms. Borzelleri stated that the main issue in dispute is whether the test claim legislation constitutes a program under article XIII B, section 6 of the California Constitution because both the local fire enforcing agency and the State Fire Marshal carry out the requirements of the legislation. Staff found that the activities do, in fact, constitute a reimbursable state-mandated program as set forth under the *County of Los Angeles* case. Staff recommended that the Commission adopt the staff analysis, which partially approves the test claim. In addition, the fees allowed for pre-inspections should be identified as offsetting revenue in the parameters and guidelines.

Parties were represented as follows: Pamela Stone and David Schoonover, representing the City of San Jose; Gregory Lake, with the Sacramento Metropolitan Fire District; and Susan Geanacou, with the Department of Finance.

Ms. Stone believed that the staff analysis was correct. She apologized that supplemental information was not submitted in writing; instead it would be presented by way of testimony.

Mr. Schoonover, having over 25 years of experience in fire service, stated his credentials and provided background information about the San Jose Fire Department. He also explained specific challenges related to inspection of residential care and day care facilities because they fall under a couple of different building classifications in the building code.

Mr. Schoonover spoke to a number of issues. First, regarding the issue of cost recovery, he asserted that in calculating the minimum amount of hours necessary to perform the fire safety inspections required to help businesses get into business, the minimum cost is around $469. Therefore, a fee of $50 is insufficient to cover their cost. In addition, Mr. Schoonover's testimony supported reimbursement for training and travel costs. Finally, he contended that depending on the variables involved, there may be several pre-inspections before the final inspection.

Member Smith asked staff if the legislation indicated whether there could be multiple pre-inspections. Ms. Borzelleri responded that the legislation was not specific.

Member Smith also asked staff's opinion about travel for the pre-inspection. Ms. Borzelleri stated that travel was not mandated in the legislation but that it is usually addressed in the parameters and guidelines. Camille Shelton, Chief Legal Counsel, affirmed and added that the parameters and guidelines allow travel as a direct cost.

Also, Member Smith asked if claimants can claim for additional resources necessary to meet the 30-day deadline for final inspections. Ms. Shelton responded that agencies have always been required to perform the final inspections. She clarified that the legislation just put in a time deadline. She noted that in the past, the Commission has not approved changes in time in legislation as a new program or higher level of service. She maintained that the court's definition of a new program or higher level of service must be met.

In response to Member Smith's questions about facilities with six or less people, Ms. Borzelleri stated that they cannot be charged any fee.

Mr. Lake provided testimony addressing the complexity of conducting pre-inspections and the issues that his inspectors experience in the field. He asserted that the issues are so complex and the variables so diverse that conducting pre-inspections can take several hours to be done properly. Thus, the $50 fee is insufficient to cover the cost of inspector time.

Chairperson Sheehan noted that staff recognizes $50 will not cover the costs.

Ms. Geanacou supported staff's analysis, noting that reimbursement is limited to pre-inspection activities.

Member Smith agreed that the fees are not enough to cover the costs. Regarding the issue of the deadline, he was unsure if it could cause a burden requiring the need for overtime work. He asked Ms. Shelton if she would go over the issue with him at a later time. Ms. Shelton agreed.

Member Smith made a motion to adopt the staff recommendation. With a second by Member Olsen, the motion carried unanimously.

Ms. Geanacou requested clarification as to which items on the agenda were postponed to the next hearing. Ms. Higashi clarified that only the *Charter Schools III* test claim was postponed.

Item 5 Proposed Statement of Decision
Fire Safety Inspections of Care Facilities, 01-TC-16
See Above

Deborah Borzelleri, Commission Counsel, presented this item. She recommended that the Commission adopt staff's proposed Statement of Decision.

Member Olsen made a motion to adopt the proposed Statement of Decision. With a second by Member Glaab, the motion carried 5-0. Member Smith abstained.

Item 6 *Charter Schools III,* 99-TC-14
Education Code Sections 41365, 47605, subdivisions (b),(c),(d), (j) and (l), 47604.3, 47607, subdivision (c), 47612.5, 47613 (former § 47613.7), and 47630-47664
Statutes 1996, Chapter 786 (AB 3384), Statutes 1998, Chapter 34 (AB 544), Statutes 1998, Chapter 673 (AB 2417), Statutes 1999, Chapter 162 (SB 434), Statutes 1999, Chapter 736 (SB 267), Statutes 1999, Chapter 78 (AB 1115)
California Department of Education Memo (May 22, 2000)
Western Placer Unified School District and Fenton Avenue Charter School, Claimants

Item 6 was postponed to the April hearing.

Item 7 Proposed Statement of Decision
Charter Schools III, 99-TC-14
See Above

Item 7 was postponed to the April hearing.

HEARING AND DECISION PURSUANT TO REMAND OF THE COURT (Gov. Code, § 17559, subd. (b).) (action)

Item 8 *Standardized Emergency Management Systems (SEMS)*, 03-RC-4506-01 (CSM-4506)
Government Code Section 8607
Statutes 1992, Chapter 1069 (Sen. Bill No. 1841)
California Code of Regulations, Title 19, Sections 2400-2450
County of San Bernardino, Claimant
On Remand from the Los Angeles County Superior Court

Camille Shelton, Chief Legal Counsel, presented this item. She stated that this case, which addresses a prior decision of the Commission on a test claim filed by the County of San Bernardino on the Standardized Emergency Management System, is on remand from the Los Angeles Superior Court.

Ms. Shelton noted that the Standardized Emergency Management System was enacted in 1992 to respond to and manage emergencies and disasters involving multiple jurisdictions and agencies. The test claim legislation set forth various requirements, including the requirement for all state agencies to use the Standardized Emergency Management System to coordinate multiple-jurisdiction or agency disaster response. However, she explained that local agencies are required to use the Standardized Emergency Management System in order to be eligible for funding of response-related personnel costs resulting from an emergency. Thus, if a local agency does not participate in the *Standardized Emergency Management System* program, the agency loses its right to apply for state funding to assist the local agency in paying for its response-related personnel costs, though it would still be eligible for repair, renovation, and other non-personnel costs.

Ms. Shelton explained that in 2002, the Los Angeles County Superior Court concluded that the test claim legislation constitutes a new program or higher level of service within the meaning of Article XIII B, section 6. However, the case was remanded to the Commission to determine whether the test claim legislation constitutes a reimbursable state-mandated program.

Staff found that the test claim legislation does not constitute a reimbursable state-mandated program within the meaning of Article XIII B, section 6 based on the Supreme Court's 2003 decision in *Kern High School District*.

Parties were represented as follows: Bonnie Ter Keurst and Kevin Norris, with the County of San Bernardino; David Zocchetti, with the Office of Emergency Services; and Susan Geanacou, with the Department of Finance.

Ms. Ter Keurst noted that Senate Bill 1841 was introduced in response to the East Bay Hills fire that occurred on October 20, 1991. She provided background about the *Standardized Emergency Management System* program and argued that the County of San Bernardino incurred costs in implementing the program related to planning, training, and reporting. She said the pointed issue was whether those costs are mandatory or voluntary.

The staff analysis, according to Ms. Ter Keurst, suggested that the language was clear that local agencies did not have a mandate. She quoted Government Code section 8607, the Legislative Counsel's digest, a memo regarding the *Standardized Emergency Management System* program, and comments submitted by the Office of Emergency Services, and argued that the intent of the legislation needed to be addressed as the language was not clear. She contended that if the county does not implement the program, it becomes ineligible for funding of response costs; therefore, it was mandatory.

Ms. Ter Keurst asserted that the arguments of the Commission staff and the Office of Emergency Services suggest a mandate for the state and not local governments. She noted, however, that comments by the Office of Emergency Services also hold that local government has the responsibility for providing public safety and welfare, and that the *Standardized Emergency Management System* program was developed to address the local issues.

Regarding the financial aspect of the claim, Ms. Ter Keurst contended that the grant monies from emergency management did not cover the costs of the program.

Mr. Norris, Deputy County Counsel for the County of San Bernardino, addressed the legal issues. He noted that before the case was remanded, the judge stated that she found the county's position more persuasive. Quoting the legal encyclopedia, *California Jurisprudence*, he stated that "where consequences are attached to failure to do a required act, the direction to do it will be held mandatory, not directory, as where a penalty is attached to failure to observe the provision." Mr. Norris argued that in this case, the consequences for a county's failure to use the Standardized Emergency Management System is no funding for response-related personnel costs. He asserted that under the plain language of the treatise quoted, the *Standardized Emergency Management System* program is mandatory.

Mr. Norris also contended that staff's reliance on the *City of Merced* and *Kern High School District* cases were misplaced. He requested that the Commission find that the *Standardized Emergency Management System* program is a state-mandated program on local governments.

Mr. Zocchetti stated that considering the commonness of disasters in California, he was surprised that disaster preparedness or emergency planning is not required at the local government level. He indicated that pretty much every local government in the state made discretionary decisions along the line for the good of their public welfare to participate in disaster preparedness.

Moreover, Mr. Zocchetti noted that all of the funding streams for disasters that come from the state and federal level are grant-based funding. He added that the grants have all been discretionary grants based upon certain eligibility requirements, either before the disaster occurs for preparedness, or after the disaster for recovery.

Mr. Zocchetti concurred with the staff recommendation that this was not a state-mandated program on local government. He noted that state government has to comply with the program, but local governments have an option and there are incentives available through the Disaster Assistance Act for compliance. However, he emphasized that the Disaster Assistance Act that is tied to the *Standardized Emergency Management System* program is in itself a discretionary grant program. He explained that the Disaster Assistance Act predates the *Standardized Emergency Management System* program. Thus, a local government can fully comply with the program but not meet the eligibility requirements for the Act, and therefore, not have access to those grant funds.

From a local government perspective, Mr. Zocchetti felt that compliance with the program was necessary for the good of public welfare. But from a financial standpoint, he did not think it was a requirement because in looking at how the Legislature set up the program in terms of compliance and the potentiality of losing disaster assistance funds, only a small sliver of the costs of recovery from a disaster was involved. Therefore, he contended that there was no coercion, no draconian measures, just an option for local governments.

Ms. Geanacou supported the staff analysis and urged the Commission's adoption. She pointed out that the Legislature chose very distinct words in addressing the *Standardized Emergency Management System* program application to state government versus local government. Also, she noted that when this matter was heard before the Los Angeles Superior Court in 2002, the *Kern High School District* case was not yet decided. She asserted that the *Kern High School District* case was squarely on point, clearly stating that required activities that attach to an underlying optional program are not themselves reimbursable.

Ms. Shelton commented that the *Kern High School District* case was directly on point and the Commission is bound to follow the case.

Member Smith felt that the loss of funding in this situation for not implementing the program was a penalty for not complying with the law. Thus, he made a motion to reject the staff recommendation and approve the test claim. The motion died for lack of a second.

Member Olsen asked for clarification in terms of response versus recovery and local government access to funds. Mr. Zocchetti responded, noting that personnel costs are a relatively small cost of the overall grant that might be provided under the Disaster Assistance Act, which is basically a comprehensive recovery grant program.

Member Olsen asked the County of San Bernardino about its personnel costs to which Ms. Ter Keurst responded.

Ms. Shelton summarized the *Kern High School District* case to explain what is required to find a mandate. First there has to be legal compulsion to comply. In this case, she stated that there was no strict legal compulsion for the counties to comply because of the difference in language used by the Legislature. She noted that staff used the rule of statutory construction. The second standard is practical compulsion with certain and severe penalties or other draconian measures. Ms. Shelton stated that in this case, there was no evidence in the record that response-related personnel costs are certain and severe or constitute draconian measures when compared to the other funding that they are eligible to receive for recovery and restoration in an emergency.

Therefore, based on the *Kern High School District* case, this was not a state-mandated program. She added that this was a question of law, not a question of equity.

Mr. Norris disagreed and argued that evidence was provided regarding the penalty that would be suffered if the county failed to comply with the program.

Ms. Shelton commented that the courts have found that the simple removal of funds from the Legislature does not rise to the level of a state mandate.

Member Glaab acknowledged the issues presented by the County of San Bernardino but felt the case was made. He made a motion to adopt the staff recommendation, which was seconded by Member Lujano.

Chairperson Sheehan felt that this case was difficult. She noted that the Legislature knows how to write a mandate if they want funding to go to local governments. She also noted that the Commission was bound by the case law directing the Commission.

The motion carried 5-1, with Member Smith voting "No."

Item 9 Proposed Statement of Decision
Standardized Emergency Management Systems (SEMS), 03-RC-4506-01 (CSM-4506)
See Above

Camille Shelton, Chief Legal Counsel, presented this item. Staff recommended that the Commission adopt the proposed Statement of Decision, which accurately reflects the staff analysis and decision on the reconsideration.

Member Glaab made a motion to adopt the proposed Statement of Decision, which was seconded by Member Olsen. The motion carried 5-1, with Member Smith voting "No."

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

AMEND PARAMETERS AND GUIDELINES BASED ON STATUTES 2004, CHAPTER 895 (AB 2855), STATUTES 2003, CHAPTER 650 (SB 71), AND STATUTES 2005, CHAPTER 677 (SB 512) AND REQUESTS OF THE STATE CONTROLLER'S OFFICE

Item 11 *Emergency Procedures, Earthquake Procedures, and Disasters and Comprehensive School Safety,* 04-PGA-24 (CSM-4241, 98-TC-01, 99-TC-10)
Education Code Sections 35294.1, 35294.2, 35294.6, and 35294.8, 35295, 35296, 35297, 40041.5 and 40042, Statutes 1984, Chapter 1659 (AB 2786), Statutes 1997, Chapter 736 (SB 187), Statutes 1999, Chapter 996 (SB 408)
State Controller's Office, Requester

Nancy Patton, Assistant Executive Director, presented this item. She noted that in 1987, the Commission determined that the *Earthquake Emergency Procedure* system was a reimbursable state mandate and adopted parameters and guidelines for the program. In 2001, the Commission determined that the *Comprehensive School Safety Plans* program was a reimbursable mandate. In 2002, the Commission reconsidered its decision to clarify that the *Emergency Procedures* program refers only to earthquake safety procedures. In 2003, the parameters and guidelines for the *Comprehensive School Safety Plans* were adopted and consolidated with the parameters and guidelines for *Emergency Procedures*. In 2004, Assembly Bill 2855 amended the *Emergency Procedures* program to delete public schools from the state-mandated requirements and repealed

the requirements that schools allow public agencies to use its facilities during disasters. It now only applies to private schools. Assembly Bill 2855 also amended the *Comprehensive Schools Safety Plans* program to require a school safety plan to include emergency procedures for earthquake safety and use of school facilities during disasters.

Ms. Patton stated that the State Controller's Office requested that the consolidated parameters and guidelines be amended to conform to the amendments required by Assembly Bill 2855. Accordingly, staff concluded that effective January 1, 2005, the *Emergency Procedures, Earthquake Procedures, and Disasters* program is no longer reimbursable and the parameters and guidelines are no longer required. Staff agreed with the Controller's Office and recommended that the Commission do the following:

- Adopt staff's proposed amendments to the consolidated parameters and guidelines to limit reimbursement to December 31, 2004, for the reimbursable activities that were approved based on the Commission's decision on *Emergency Procedures.* This applies to reimbursement claims filed for costs incurred in fiscal year 2004-2005.
- Adopt staff's recommended amendments to the consolidated parameters and guidelines to delete all the references to, and all reimbursable activities and direct costs for the *Emergency Procedures* program. This applies to reimbursement claims filed for costs incurred in fiscal year 2005-2006.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Parties were represented as follows: Art Palkowitz, on behalf of the San Diego Unified School District; Robert Miyashiro, with the Education Mandated Cost Network; and Susan Geanacou, with the Department of Finance.

Mr. Palkowitz contended that the language in Assembly Bill 2855 intended to be a continuation of *Emergency Procedures* into the *Comprehensive Schools Safety Plans* program.

Mr. Miyashiro noted that the bill moved the provisions for *Emergency Procedures* from one provision of the Education Code to another. He disagreed with staff's conclusion that this was not a restatement of the law. He provided the Commission members with the Senate floor analysis on the bill before it was voted on by the Legislature. He argued that the bill deleted specific requirements and mandates making them no longer reimbursable. However, he contended that it did not do that for *Emergency Procedures*. Rather, the bill simply consolidated them into the *Comprehensive School Safety Plans*. He maintained that in no case did the Legislature expect that by recasting the provisions, it would disallow reimbursement to school districts for those activities.

Ms. Geanacou supported the staff analysis.

Ms. Shelton commented that under the original *Emergency Procedures* program, school districts were being reimbursed to implement that program. When the Commission adopted the parameters and guidelines for *Comprehensive School Safety Plans*, the Commission found that implementation is not reimbursable. Also, she noted that *Emergency Procedures* was a mandate on school districts, whereas *Comprehensive School Safety Plans* was a mandate on the school site. Because they are different programs, Ms. Shelton stated that a new test claim filing on the change of law would be required. She added that the staff analysis shows that the *Emergency Procedures* program did not continue in its same form as Mr. Miyashiro was arguing.

Mr. Miyashiro responded that the reimbursable costs related to the *Emergency Procedures* program prior to Assembly Bill 2855 were anticipated to continue based on the Senate floor analysis on the bill.

Member Olsen asked for clarification whether the issue was technical, a matter of submitting a new test claim. Mr. Palkowitz asserted that it was a problem because the period of time to file the test claim may have already passed. Accordingly, Mr. Palkowitz stated that there was no recourse for districts throughout the state.

Member Smith asked about the Legislative Counsel's opinion. Ms. Shelton responded that the opinions were not binding on the interpretation of the statute.

Mr. Palkowitz contended that unless there was contrary intent, the presumption is that there is a continuation.

Ms. Shelton responded that under *Comprehensive School Safety Plans,* the Legislature directed school districts to prepare a comprehensive school safety plan. She explained that the plain language of the statute did not require them to implement any of the safety procedures that they developed.

Ms. Higashi reviewed the differences between the two programs. She clarified that the *Comprehensive School Safety Plans* program affected school sites, whereas *Emergency Procedures* affected school district governing boards. She noted that *Emergency Procedures* had a provision requiring school districts to make their facilities available during disasters and that language no longer remains in the amendments but was replaced with language that says there shall be a policy allowing for the use of those facilities in the plan. She added that the development procedures for *Comprehensive School Safety Plans* are different because approval at the school site level is required. And, there are also grants available for new schools and separate implementation grants available.

Mr. Palkowitz asked where there was contrary intent.

Chairperson Sheehan observed that the Legislature would have added additional language if it was intended that reimbursement continue.

Mr. Miyashiro argued that the Legislature was very clear in those mandates where they intended repeal. He felt that in this case, it was expected to continue.

Ms. Higashi stated that the Commission statute for receiving test claims is found in Government Code section 17551. After stating the provision, she said that it was possible that the increased costs could be incurred later than 12 months.

Mr. Palkowitz responded that the possibility that increased costs would be incurred was remote. Member Blake requested clarification regarding Mr. Palkowitz's statement. As an example, Mr. Palkowitz stated that if the district incurred costs of one million dollars to carry out the activities under *Emergency Procedures,* and these activities are moved within the *Comprehensive School Safety Plans* program, the cost would be the same. Therefore, he asserted that the district would not be able to file a test claim because they did not incur increased costs.

Member Glaab made a motion to adopt the staff recommendation, which was seconded by Member Olsen. The motion carried 5-1, with Member Smith voting "No."

SPECIAL REPORT (info/action)

Item 12 *CSUS Center for Collaborative Policy Report: Preliminary Assessment of Feasibility of Using Collaborative Policymaking Process for Mandate Reform*

Cathy Cruz, Program Analyst, presented this item. She stated that the Center for Collaborative Policy conducted an assessment to scope out issues that should be addressed in mandate reform discussions, opportunities for agreement on reforms, and the potential for using a collaborative process to develop recommendations for consideration by the Legislature and Governor. The Center interviewed over 40 persons that participate in the mandates process, and issued a draft report, which staff made available on its website on March 17.

Ms. Cruz noted that the interviewees provided numerous ideas for reforming the mandate determination and reimbursement process. Generally, the Center found that there was a clear willingness among potential stakeholders to consider the suggestions and perspectives of all other stakeholders.

Ms. Cruz indicated that the Center found a few areas where there was no consensus among the interviewees; however, the Center did find that there were several issues where there was general agreement among the interviewees, including, among other things, that the information available to the Legislature for their deliberation on proposed new mandates could be improved significantly, that the mandate determination and reimbursement process should take place in a shorter period of time, and that there are several practices that delay the determination of test claims.

In addition, Ms. Cruz reported that the interviewees identified four factors that were critical to their participation in a collaborative process. Thus, the Center concluded that using a collaborative process to consider recommendations for reform of the state mandates process is feasible if the following critical factors are adequately addressed:

1. The process should enjoy the support of the Legislature and participants should be assured that the Legislature would carefully consider any recommendations offered resulting from the process.
2. The Department of Finance should be engaged directly in the collaborative process.
3. The process should have the benefit of neutral facilitation to guide the deliberations and negotiations.
4. The process should have adequate time and resources available to support the deliberations. In particular, many interviewees believed that the period between now and the time to introduce related legislation in early 2007 is most opportune.

Should the Commission and the Legislature agree to use a collaborative process to pursue mandate reform, Ms. Cruz reported that the Center suggested the following:

1. In order for the Legislature to have time to consider the recommendations in the next legislative year, the date for the report should be no later than March 1, 2007.
2. The process should address both education and local agency mandates. Although this may make the process more complex, two subcommittees could be organized to focus on the respective areas and the recommendations brought back to the full group.
3. The collaboration should take as a starting point for discussion the ideas of the Department of Finance, and then expanded to look at additional ideas.

4. The focus should be entirely on the mandates process itself and not on the substantive content of any particular mandate.
5. The collaborative process should start with convening and organization, and proceed through joint fact finding, negotiations, and implementation.

Overall, staff found that the Center's draft report supported the use of a collaborative process to pursue mandate reform. Ms. Cruz noted that using a collaborative process will give parties a better chance to communicate and understand all sides of an issue.

Moreover, Ms. Cruz reported that staff organized a meeting the day before to allow interested parties to provide feedback regarding the draft report's findings and recommendations. Representatives from the Legislature, Department of Finance, State Controller's Office, Department of Education, school districts, and cities and counties attended the meeting. Generally, the participants who spoke out supported use of a collaborative process to discuss mandate reform. She said that the Center would revise the draft report to incorporate all the additional information received during these meetings and a final report would be issued in time for the Commission's April hearing.

Ms. Cruz outlined the Commission's options:

1. Adopt staff's findings and conclusions. Specifically:
   - Using a collaborative process is feasible.
   - The process should address both education and local agency mandates as it relates to mandate determinations. Funding mandates for local agencies and school districts should be deliberated separately.
   - Process issues like the focus of the deliberations or the use of any agency's ideas as a beginning point should be decided by the stakeholders.
   - The process should be completed by February 2007, to ensure adequate time for legislative hearings and for a bill to proceed through the Legislature during the 2007 legislative session.
2. Partially adopt staff's findings and conclusions. This means the Commission agrees that a collaborative process is feasible, but does not necessarily agree with staff's other conclusions.
3. Reject staff's findings and conclusions. This means the Commission does not agree to proceed with a collaborative process, and will pursue other methods for completing mandate reform.

Staff recommended that the Commission adopt Option 1. If the Commission adopts this option, staff will work with the Department of Finance and the Legislature to obtain funding for the process; select and contract with a neutral facilitator to guide and manage the collaborative process; work with Department of Finance, the Legislature, and other stakeholders to encourage their participation; and report to the Commission at each hearing on the progress of the collaborative process.

Staff also recommended that the Center's final report be amended to clarify that the Legislature's and LAO's ideas for reform will be fully considered, that legislative and LAO staff are encouraged to participate in the collaborative meetings, and that the final report will be formally submitted to the Legislature for their review and consideration.

Ms. Cruz informed the Commission that regardless of what action it takes, staff will report to the Legislature, including the Senate Budget and Fiscal Review Committee and Assembly Budget

Committee, of any actions taken to implement the Center's report.

Finally, Ms. Cruz introduced David Booher with the Center of Collaborative Policy. Mr. Booher is one of the co-authors of the draft assessment report.

Parties were represented as follows: David Booher, with the Center for Collaborative Policy; Allan Burdick, on behalf of the California State Association of Counties, SB 90 Service; Leonard Kaye, with the County of Los Angeles; and Glen Everroad, with the City of Newport Beach and co-chair of the SB 90 Advisory Committee.

Chairperson Sheehan asked Mr. Booher if the Center was still conducting interviews and if additional comments would be integrated into the report. Mr. Booher replied that the Center was still conducting new interviews and second interviews for clarification purposes. He also stated that new comments would be integrated into the report to clarify things like the Legislature's participation, but the basic underlying recommendations would not change.

Member Smith thanked staff and the Center for their work. He indicated that the Controller was very excited about the process and urged the Commission's support.

Chairperson Sheehan felt that it may be better for the process to be completed in January or February 2007. She agreed that to start, both local agencies and the education community should discuss all the issues and divide at a certain point in time when necessary. Chairperson Sheehan believed great progress was being made; she thanked staff and the Center and appreciated the support of the Legislature, especially Mr. Laird and his staff, who really encouraged the Commission to move forward.

Mr. Burdick thanked the Commission for moving forward with the process. He stated that if the Commission proceeded with the collaborative process, the California State Association of Counties had designated Steve Keil to be their primary contact and to organize the county effort. He noted that the Commission had the full support of the California State Association of Counties and the League of California Cities.

Mr. Kaye supported the effort and emphasized that the process should include a diversity of people actually involved in the day-to-day activity of SB 90 reimbursement.

Mr. Everroad concurred with Mr. Kaye's comments and noted that time should be spent to conduct the process properly. He submitted that all parties need to be included in the process and all suggestions taken. He appreciated the Commission's efforts in this regard.

Member Blake was glad to see the process continuing. She commented that because it was election year, there will be a huge shift in the Legislature; thus, the process should start sooner than later.

Member Glaab noted that he attended the informal meeting of interested parties the day before and thanked all the participants, noting that their feedback was well-received. He commented that the process should take all the appropriate time, but also be flexible. He strongly supported the process and commended the work of staff and the Center.

In response to Chairperson Sheehan's comment, Ms. Higashi clarified that staff modified its original recommendation about the completion date of the process. Ms. Cruz reported the staff recommendation that the process be completed by February 2007.

Member Smith made a motion to adopt Option 1 as staff recommended. With a second by Member Olsen, the motion carried unanimously.

STAFF REPORTS

Item 13 Chief Legal Counsel's Report (info)
Recent Decisions, Litigation Calendar

No report was made.

Item 14 Executive Director's Report (info/action)
Workload, Budget, Legislation, and Next Hearing

Ms. Higashi reported the following:

- *Budget.* The Senate subcommittee approved language directing reconsideration of two prior test claim decisions and held open the Commission's budget until the May revision. The budget committees are both interested in the Commission's action on the collaborative process and staff will work with the fiscal committee and Department of Finance staff and do what is necessary to obtain funding for mandate reform.
- *Legislation.* Language was submitted to Legislative Counsel for AB 2652, the sponsored bill to reform the incorrect reduction claim process. Staff has not seen the language yet, but will be working with all the stakeholders involved in that process.
- *Workload.* A list of pending matters that have been scheduled through the rest of the year was distributed to give claimants and their representatives an idea of how staff will proceed with the test claims currently in the Commission's caseload.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Hearing no further business, Member Sheehan adjourned the meeting at 11:53 a.m.

PAULA HIGASHI
Executive Director

Hearing Date: March 29, 2006
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ITEM 9

TEST CLAIM

PROPOSED STATEMENT OF DECISION

Government Code Section 8607
Statutes 1992, Chapter 1069 (Sen. Bill No. 1841)
California Code of Regulations, Title 19, Sections 2400-2450

Standardized Emergency Management System
03-RC-4506-01 (CSM-4506)

County of San Bernardino, Claimant

On Remand from the Los Angeles County Superior Court

EXECUTIVE SUMMARY

The sole issue before the Commission on State Mandates ("Commission") is whether the Proposed Statement of Decision accurately reflects the Commission's decision on the *SEMS* test claim.[1]

Recommendation

Staff recommends that the Commission adopt the Proposed Statement of Decision, beginning on page three, which accurately reflects the staff analysis and recommendation on this test claim. Minor changes, including those that reflect the hearing testimony and vote count, will be included when issuing the final Statement of Decision.

If the Commission's vote on item 8 modifies the staff analysis, staff recommends that the motion to adopt the Proposed Statement of Decision reflect those changes, which will be made before issuing the final Statement of Decision. Alternatively, if the changes are significant, staff recommends that adoption of a Proposed Statement of Decision be continued to the April 2006 Commission hearing.

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[1] California Code of Regulations, title 2, section 1188.1, subdivision (a).

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Government Code Section 8607;
Statutes 1992, Chapter 1069 (Sen. Bill No. 1841); and California Code of Regulations, Title 19, Sections 2400-2450,

Filed on December 22, 1995,

By the County of San Bernardino, Claimant,

On Remand from the Los Angeles County Superior Court, Case No. BS069611.

Case No.: 03-RC-4506-01 (CSM-4506)

Standardized Emergency Management System

PROPOSED STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Proposed for Adoption on March 29, 2006)

PROPOSED STATEMENT OF DECISION

The Commission on State Mandates ("Commission") heard and decided this test claim during a regularly scheduled hearing on March 29, 2006. [Witness list will be included in the final Statement of Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the staff analysis to deny the remanded test claim at the hearing by a vote of [vote count will be included in the final Statement of Decision].

Summary of Findings

As more fully described below, the Commission finds that Government Code section 8607 and the regulations adopted by Office of Emergency Services (Code of Regs., tit. 19, §§ 2400-2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution based on the Supreme Court's 2003 decision in *Department of Finance v. Commission on State Mandates* (*Kern High School Dist.)* (2003) 30 Cal.4th 727, and other cases.

Background

This case is on remand from the Los Angeles County Superior Court and addresses a prior decision of the Commission on State Mandates (Commission) on a test claim filed by the County of San Bernardino on the Standardized Emergency Management System, commonly known as "SEMS." SEMS was enacted in 1992 and is a complex emergency response system created to respond to and manage emergencies and disasters involving multiple jurisdictions and agencies.

The test claim statute, Government Code section 8607 (Stats. 1992, ch. 1069), required the Governor's Office of Emergency Services (OES), in coordination with interested state and local agencies, to establish by regulation a standardized emergency management system for use by all emergency response agencies for all emergencies or disasters referenced in the state emergency plan. The regulations became operative on September 2, 1994. (Cal. Code Regs., tit. 19, §§ 2400-2450.)[2] Government Code section 8607 and the regulations set forth a number of requirements, including the requirement for all state agencies to use SEMS to coordinate multiple jurisdiction or multiple agency emergency and disaster operations. (Gov. Code, § 8607, subd. (d).) Government Code section 8607, subdivision (e), requires local agencies to use SEMS in order to be eligible for funding of response-related personnel costs resulting from an emergency. Government Code section 8607, subdivision (e), states the following:

(1) By December 1, 1996, each local agency, in order to be eligible for any funding of response-related costs under disaster assistance programs, shall use the standardized emergency management system ….

(2) Notwithstanding paragraph (1), local agencies shall be eligible for repair, renovation, or any other nonpersonnel costs resulting from an emergency.[3]

In 2002, the Los Angeles County Superior Court concluded that the test claim legislation constitutes a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.[4] The court, however, remanded the case to the Commission to determine whether the test claim legislation constitutes a reimbursable state-mandated program. In making its ruling, the court described the issue on remand as follows:

> Respondent contended that SEMS implementation by local agencies is optional and section 8607, in requiring said agencies to use SEMS to be eligible for funding of response-related costs, is only an incentive to use SEMS.
>
> Petitioner, on the other hand, contended that use of SEMS by local agencies is required if they want to continue receiving state disaster assistance funds previously available, and that local agencies are therefore forced to incur new increased costs to implement SEMS.
>
> This Court finds Petitioner's position on the issue more persuasive.[5]

In order to understand this claim, a summary of prior law and the SEMS program are provided below.

Prior Law

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[2] Section 2402, subdivision (m), defines "local government" subject to SEMS to mean "local agencies as defined in Government Code, § 8680.2 and special districts defined in California Code of Regulations, Title 19, § 2900(y)." Government Code section 8680.2 defines "local agency" to mean "any city, city and county, county, county office of education, community college district, school district, and special district."

[3] See also, California Code of Regulations, title 19, sections 2401, 2443.

[4] Court's Decision on Submitted Matter, page 4.

[5] Court's Decision on Submitted Matter, pages 4-5.

Before the enactment of the test claim statute and regulations, the Legislature enacted several statutes on emergency services. This legislation includes the California Emergency Services Act (ESA), the FIRESCOPE program (Firefighting Resources of California Organized for Potential Emergencies), and the Natural Disaster Assistance Act.

The ESA was enacted in 1970 (Gov. Code, §§ 8550, et seq.; Stats. 1970, ch. 1454) to assure that state and local entities will adequately prepare for and deal with the effects of natural, manmade, or war-caused emergencies through coordination of resources at the state and local level.[6, 7] The ESA establishes three degrees of emergency; a state of war emergency, a state of emergency, and a local emergency.[8]

The ESA is comprehensive and contains a number of provisions, recognizing that "the actions of a numerous public agencies must be coordinated to effectively manage all four phases of emergency activity: preparedness, mitigation, response, and recovery."[9] The ESA confers emergency powers upon the Governor and the chief executives in accordance with the State Emergency Plan, and upon governing bodies of local government;[10] establishes the Governor's

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[6] The ESA replaced the California Disaster Act of 1943 (former Mil. & Vet. Code, § 1500 et seq.).

[7] Government Code section 8550, subdivision (e); 62 Opinions of the California Attorney General, 701, 702 (1979).

[8] A "state of war emergency" is defined in Government Code section 8558 as "the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent."

A "state of emergency" is defined in Government Code section 8558 as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state that are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat the emergency. Examples include conditions caused by "air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a 'state of war emergency,' which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage [that] requires extraordinary measure beyond the authority vested in the California Public Utilities Commission."

A "local emergency" is defined in Government Code section 8558 as those conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

[9] Government Code section 8588.3, subdivision (a).

[10] Government Code sections 8565 et seq., 8575 et seq., and 8635 et seq.

Office of Emergency Services (OES);[11] authorizes local disaster councils to provide for the mobilization of resources within cities and counties;[12] and provides for mutual aid during emergencies when the need arises for outside aid in any county, city and county, or city through the adoption of emergency plans and the Master Mutual Aid Agreement.[13] Although local disaster councils and mutual aid agreements were authorized under prior law by the ESA, they were not required.

The Master Mutual Aid Agreement is an agreement between the state and the various political subdivisions of the state for the furnishing of resources, facilities, and services in accordance with duly adopted mutual aid operation plans.[14] The agreement was executed in 1950 by "California's incorporated cities, all 58 counties, and the state."[15] Under the terms of the agreement, each party is required develop a plan providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster. In addition, each party agrees to furnish resources and facilities and to render services to each and every other party to the agreement to prevent and combat any type of disaster in accordance with duly adopted mutual aid operational plans. The mutual aid extended under the agreement and the operational plans adopted pursuant to the agreement must be consistent with the California Disaster Act (the predecessor to the ESA). Any party can terminate its participation in the agreement with proper notice. The agreement also encourages local mutual aid plans to combat local emergency situations.[16]

The ESA authorizes the Governor to divide the state into mutual aid regions for the more effective application, administration, and coordination of mutual aid and other emergency-related activities within an area.[17] A "mutual aid region" is defined as "a subdivision of the state emergency services organization, established to facilitate the coordination of mutual aid and other emergency operations within an area of the state consisting of two or more county operational areas."[18] Each county is designated as an operational area.[19]

In a state of war emergency, each operational area is required to "serve as a link in the system of communications and coordination between the state's emergency operating centers and the operating centers of the political subdivisions comprising the operational area."[20] During a state

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[11] Government Code section 8585.

[12] Government Code sections 8610 through 8614.

[13] Government Code sections 8561 and 8615 et seq.

[14] Government Code section 8561; 33 Opinions of the California Attorney General 169, 170 (1959).

[15] SEMS Guidelines, Part I, page 7.

[16] See Master Mutual Aid Agreement; 33 Opinions of the California Attorney General 169, 170-171 (1959).

[17] Government Code section 8600.

[18] Government Code section 8559.

[19] Government Code section 8605.

[20] *Ibid*.

of emergency or a local emergency, the operational area "may" be used by the county and the political subdivisions comprising the operational area for the coordination of emergency activities and communications.[21] The ESA authorizes counties to organize and structure their operational area.[22]

In 1989, the Legislature established the FIRESCOPE program "to maintain and enhance the efficiency and effectiveness of managing multi-agency firefighting resources in responding to an incident."[23] OES is directed under the FIRESCOPE program to provide for the research, development, and implementation of technologies, facilities and procedures to assist state and local fire agencies in the better utilization and coordination of firefighting resources in responding to incidents.[24] To meet its goals, the Legislature directed that the FIRESCOPE program include improved methods to coordinate multi-agency firefighting resources, standard fire terminology for improving incident management, improved multi-agency fire communications, multi-agency training, a common mapping system, improved fire information management systems, and regional operational coordination centers.[25]

Finally, in 1974, the Legislature enacted the Natural Disaster Assistance Act to provide state financial assistance to eligible local agencies that apply for state funds to help pay for the costs of recovery following a natural disaster.[26] "Natural disaster" is defined as a "fire, flood, storm, tidal wave, earthquake, or other similar public calamity resulting from natural causes or in the case of fire which the Governor determines presents a threat to public safety, by man-made causes."[27] If an application is approved and money is appropriated by the Legislature, the Director of Emergency Services allocates funds to meet the costs for repair or restoration of real property of a local agency used for essential governmental services, other than for normal maintenance.[28] The funds can be applied to buildings, levees, flood control works, channels, irrigation works, city streets, county roads, bridges, and other public works that are damaged or destroyed by a natural disaster.[29] Funds can also be applied to personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities incurred as a result of a state of emergency proclaimed by the Governor, excluding the normal hourly wage costs of regularly assigned emergency services and public safety personnel.[30] Except as expressly

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[21] *Ibid*.

[22] *Ibid*.

[23] Health and Safety Code section 13071.

[24] *Ibid*.

[25] Health and Safety Code section 13072.

[26] Government Code sections 8680 et seq.

[27] Government Code section 8680.3.

[28] Government Code sections 8680.4, 8680.5, 8685, 8685.4.

[29] Government Code section 8680.4

[30] Government Code section 8685, subdivision (a).

specified in statute, the state share of project funds shall be no more than 75 percent of total state eligible costs.[31]

SEMS

As a result of events that occurred during the 1991 East Bay Oakland Hills fire, the Legislature amended the ESA in 1992 by adding the test claim statute, Government Code section 8607, to the program.[32] The statute provides, in relevant part, that:

- OES shall establish a standardized emergency system for use by all emergency response agencies. The system shall be applicable during, but not limited to, those emergencies and disasters referenced in the state emergency plan.
- The standardized emergency management system shall include the following systems of framework: the Incident Command Systems adapted from the systems originally developed by the FIRESCOPE program; the multiagency coordination system developed by the FIRESCOPE program; the mutual aid agreement and related mutual aid systems such as those used in law enforcement, fire service, and coroners' operations; and the operational area concept.
- Individual agencies' roles and responsibilities agreed upon and contained in existing laws or the state emergency plan are not superseded by SEMS.
- OES, in coordination with the State Fire Marshall's Office, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, the Emergency Medical Services Authority, and all other interested state agencies with designated response roles in the state emergency plan, shall jointly develop an approved course of instruction for use in training all emergency response personnel on SEMS.
- State agencies are required to use SEMS. Local agencies, in order to be eligible for response-related personnel costs under the disaster assistance program, shall use SEMS.

Regulations establishing the SEMS program were adopted by OES in 1994. (Cal. Code Regs., tit. 19, §§ 2400-2450.) Pursuant to section 2401 of the regulations, "SEMS requires emergency response agencies [to] use basic principles and components of emergency management including ICS [Incident Command System], multi-agency or inter-agency coordination, the operational area concept, and established mutual aid systems." Section 2401 further provides that local agencies must use SEMS by December 1, 1996, in order to be eligible for state funding of response-related personnel costs for emergency work activities, debris removal, and emergency protective measures as defined in sections 2920, 2925, and 2930 of the Office of Emergency Services regulations.

Section 2403 of the SEMS regulations designates five levels in the SEMS organization that are required to be used in responding to, managing, and coordinating multiple agency or multiple jurisdiction incidents, whether single or multiple discipline. The five levels are field response, local government, operational area, regional, and state. Each level is activated as needed. Local agencies actively participate in the field response, operational area, and local government levels

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[31] Government Code section 8686.

[32] SEMS Guideline, Part I, page 3.

of SEMS. Each of the five levels are required to provide management, operations, planning/intelligence, logistics, and finance/administration functions, as defined in section 2402 of the regulations.

The field response level "commands emergency response personnel and resources to carry out tactical decisions and activities in direct response to an incident or threat." (Cal. Code Regs., tit. 19, § 2403, subd. (b)(1).) Emergency response agencies operating at the field response level of single jurisdictional or multi-agency incidents are required to use the Incident Command System. (Cal. Code Regs., tit. 19, § 2405, subd. (a).) The Incident Command System is the nationally used standardized on-scene emergency management concept specifically designed to allow its users to adopt an integrated organizational structure equal to the complexity and demands of single or multiple incidents. (Cal. Code Regs., tit. 19, § 2402, subd. (l).) The components of the Incident Command System are common terminology, modular organization whereby staff builds from the top down with responsibility and performance placed initially with the Incident Commander, unified command structure, consolidated action plans, manageable span-of-control, pre-designated incident facilities, comprehensive resources management, and integrated communications. (Cal. Code Regs., tit. 19, § 2405, subd. (a)(3).)

The local government level "manages and coordinates the overall emergency response and recovery activities within their jurisdiction." (Cal. Code Regs., tit. 19, § 2403, subd. (b)(2).) The local government level of SEMS is activated when the local government emergency operations center is activated and/or when a local emergency is declared or proclaimed. (Cal. Code Regs., tit. 19, § 2407, subd. (a).) When the local government level is activated, communications and coordination are required to be established between the Incident Commander and the department operations center to the emergency operations center. (Cal. Code Regs., tit. 19, § 2407, subd. (b).) Coordination of fire and law enforcement resources shall be accomplished through their respective mutual aid systems. (*Ibid*.)

The operational area level "manages and/or coordinates information, resources, and priorities among local governments within the operational area and serves as the coordination and communication link between the local government level and the regional level." (Cal. Code Regs., tit. 19, § 2403, subd. (b)(3).) The operational area level is activated in the following circumstances: when a local government within the operational level has activated its emergency operations center and requested activation of the operational area emergency operations center to support the emergency operations; two or more cities within an operational area have declared or proclaimed a local emergency; the county and one or more cities have declared or proclaimed a local emergency; a city, city and county, or county has requested a governor's proclamation of a state of emergency; the operational area is requesting resources from outside its boundaries; or when the operational area has received resource requests from outside its boundaries. (Cal. Code Regs., tit. 19, § 2409, subd. (f).)

Each county geographic area is designated an operational area. (Cal. Code Regs., tit. 19, § 2409, subd. (a).) All local governments within the operational area shall be organized by December 1, 1995, and the county board of supervisors shall be responsible for its establishment. (Cal. Code Regs., tit. 19, § 2409, subd. (b).) The county government shall serve as the lead agency of the operational area unless another member agency of the operational area assumes that responsibility by written agreement with county government. (Cal. Code Regs., tit. 19, § 2409, subd. (d).) The lead agency of the operational area shall coordinate information, resources and priorities among the local governments within the operational area; coordinate

information, resources and priorities between the regional level and the local government level; and use multi-agency or inter-agency coordination to facilitate decisions for overall operational area level emergency response activities. (Cal. Code Regs., tit. 19, § 2409, subd. (e).) Coordination of fire and law enforcement resources shall be accomplished through their respective mutual aid systems. (*Ibid*.)

The regional level "manages and coordinates information and resources among operational areas within the mutual aid region designated pursuant to Government Code section 8600 and between the operational areas and the state level." (Cal. Code Regs., tit. 19, § 2403, subd. (b)(4).) The regional level is activated "when any operational level emergency operations center within the mutual aid region is activated." (Cal. Code Regs., tit. 19, § 2411, subd. (a).) Under such circumstances, communications and coordination shall be established with the operational areas, the state level emergency operations center, and regional level department operations centers. OES has the lead responsibility for planning and developing SEMS at the regional level.[33]

The state level "manages state resources in response to the emergency needs of the other levels, manages and coordinates mutual aid among the mutual aid regions and between the regional level and state level, and serves as the coordination and communication link with the federal disaster response system.

The SEMS regulations further require local agencies, in order to be eligible for response-related personnel costs from the state, to provide SEMS training to each emergency response employee and ensure that each employee can demonstrate and maintain, to the level deemed appropriate, the minimum SEMS performance objectives required by their agencies' training programs. Local agencies are required to use the Minimum Performance Objectives contained in the Approved Course of Instruction (ACI) dated March 1, 1995, for training. (Cal. Code Regs., tit. 19, § 2428.)[34]

In addition, each local agency is required to document its compliance with SEMS in the areas of planning, training, exercises, and performance in order to be eligible for state funding of response-related personnel costs. All applicants for reimbursement of response-related personnel costs shall self-certify compliance with the program. Evidence of compliance with SEMS shall be available for review. A SEMS compliance review occurs when the OES Director determines sufficient evidence exists to warrant a review. The OES Director decides whether the agency being evaluated is in compliance with SEMS. If the agency disagrees with the decision, it can request reconsideration of the decision. (Cal. Code Regs., tit. 19, §§ 2443 and 2444.)

SEMS regulations also require the completion of an after-action report, which shall contain, at a minimum, "a review of response actions taken, application of SEMS, suggested modifications to SEMS, necessary modifications to plans and procedures, identified training needs, and recovery activities to date." (Cal. Code Regs., tit. 19, § 2450, subd. (b).) Any city, city and county, or county declaring a local emergency for which the governor proclaims a state of emergency shall

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[33] SEMS Guidelines, Part II (D).

[34] See SEMS Guidelines, Part III, for the Approved Course of Instruction.

complete and transmit the after-action report to OES within ninety (90) days of the close of the incident period. (Cal. Code Regs., tit. 19, § 2450, subd. (a).)[35]

In 1995, SEMS Guidelines were issued by OES to further explain the program and to provide examples and models that may be used to plan, develop, and maintain SEMS consistent with the regulations.[36] Part II of the Guidelines provides recommendations on how a local agency, for each level of organization in SEMS, should plan and develop the program for compliance with SEMS.[37] The Guidelines, like the test claim statute and regulations, indicate that local agencies must use SEMS to be eligible for state funding of response-related personnel costs. The following outlines a summary of the planning, training, and exercise activities for the organizational levels of SEMS that are recommended by OES for local agencies.[38]

Field Response Level:

- Adopt policies and procedures for using the Incident Command System (ICS) in field response. Communicate the policy to all personnel in agencies and departments that provide field level response. These agencies and departments typically include fire services, law enforcement, emergency medical services, public works, street and road, transportation, water/wastewater, levee maintenance/flood control, coroner/medical examiner, utilities, environmental health, parks and recreation, and school districts.
- Update field manuals and standard operating procedures to incorporate the Incident Command System.
- Develop a training plan for field response personnel and document the training for all personnel trained. The plan shall use the state-approved SEMS training curriculum, or an alternate program that provides for the same minimum training competencies.
- Develop field exercises using the Incident Command System on an annual or more frequent basis. It is recommended that the exercise program coordinate with other agencies for multi-agency or multi-jurisdictional field exercises.

Local Government Level:

- Adoption by the governing body of the SEMS program.
- Update existing ordinances, resolutions, or emergency plans to reflect the use of SEMS.
- Appoint lead staff for SEMS planning. The lead staff should be responsible for communicating information within the local government on SEMS requirements and guidelines; coordinating SEMS development among departments and agencies;

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[35] SEMS Guidelines, Part III, provides a recommended process for preparing the after-action report and its supporting documentation.

[36] SEMS Guidelines, Part I, page 1.

[37] Parts II and III of the Guidelines are identified as "Draft 12/23/94." But, as of January 12, 2006, they are on the OES website (http:www/oes.ca.gov) under "SEMS Guidelines."

[38] Similar activities are outlined by the claimant in the matrix attached to the comments dated June 30, 2004.

coordinating with other local governments, the operational area, and volunteer and private agencies on development of SEMS; and incorporating SEMS into the local government emergency plan and procedures, and emergency operations center organization. The Guidelines recommend the identification of all departments and agencies of the local government involved in the field level and all departments and agencies of the local government with department operations centers.

- Agreement by the governing body to participate in the operational area. The Guidelines state the following: "An essential part of SEMS is developing an effective operational area organization and systems for coordination within the operational area. All cities should be active participants in the development of the operational area within their respective counties. Special districts that serve multiple jurisdictions should also participate in developing the operational area."
- Provide SEMS training and document the training for all local government staff who may participate in emergencies in the emergency operations center, in department operations centers, or at the field level pursuant to the state-approved course of training.
- Develop an exercise program that provides periodic exercises for emergency operations center and department operations center personnel. Page 8 of Part II (B) of the Guidelines provides a recommended exercise program.

Operational Area Level:

- Identify all local governments, volunteer, and private organizations in the operational area. Determine special districts' emergency roles and methods of coordinating with them.
- Establish the operational area through the board of supervisors' adoption of a policy, resolution, or ordinance. Elements needed for an effective operational area include an established policy for use of the operational area in emergencies, agreements among local governments to participate in the operational area, designated lead agency and staff to maintain the operational area, designated operational area emergency management organization (emergency operations center staff and operational area mutual aid coordinators), adequate emergency operations center facility, communications link with member agencies, twenty-four hour a day answering point for emergency notifications from local government and state warning center, and operational area emergency plan and procedures. The Guidelines also recommend the formation of an operational area disaster or emergency council and the development of emergency operations center activation criteria.
- Train all personnel and document the training for all employees that will be staffing positions in the operational area emergency operations center pursuant to the state-approved course of instruction.
- Develop an exercise program that provides periodic exercises for emergency operations center and department operations center personnel. Page 8 of Part II (C) of the Guidelines provides a recommended exercise program.

In May 1996, the Office of Emergency Services issued Bulletin L1-1 on SEMS.[39] The Bulletin states in relevant part that "[u]nder state law and regulations adopted by the Governor's Office of Emergency Services, SEMS is a discretionary activity by local government." The Bulletin further states that "if a local government cannot document and show evidence of its participation in an organized operational area during an emergency, this would potentially result in forfeiture of its right to access state funding for response-related personnel costs."

Claimant's Position

The claimant contends that the test claim legislation constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The claimant states the following:

> [A]t first blush, SEMS appears to be a voluntary program. However, on further analysis, it is the furthest from voluntary but is, in fact, mandatory with substantial costs attendant thereto.
>
> Prior to the enactment of Chapter 1069, Statutes 1992, the within test claim legislation, counties and cities were authorized to create disaster councils to develop plans for emergencies, but such actions were strictly discretionary. Prior to SEMS, San Bernardino relied heavily on reimbursement for disaster response and recovery provided by the California Natural Disaster Assistance Act (NDAA), which had no strings attached. Now, failure to use SEMS results in the loss of NDAA's funding. Government Code section 8607(e). The penalty for failure to use SEMS is inordinate: just for the 1992 Landers/Big Bear earthquakes and the 1993 winter storms in San Bernardino, absent compliance with SEMS, San Bernardino would have lost in excess of $600,000.[40]

The claimant argues that "[t]he nature of the financial penalties for noncompliance with SEMS is that it renders what would appear on its face voluntary, to be mandatory."[41]

The claimant filed comments on the draft staff analysis contending that:

- The Commission should "defer to the Superior Court's analysis and … conclude that SEMS implementation is mandatory and that SEMS constitutes a reimbursable state-mandated program."[42]
- The public agencies in *Kern High School Dist.* and *City of Merced* were not subject to any type of "financial penalty" for nonparticipation in the test claim program and, thus, these cases should not be applied here.
- If the Legislature intended SEMS to be voluntary, then the Legislature would not have required counties to be responsible for the "middle cog of the process" at the operational level of SEMS. "The County is required to be an integral part of the process."[43]

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[39] Administrative Record for CSM 4506, page 308.

[40] Comments dated June 30, 2004, pages 3 and 4.

[41] *Id*., page 5; claimant's rebuttal comments dated October 14, 2004, page 2.

[42] Claimant's comments to draft staff analysis dated February 8, 2006, page 2.

Position of the Office of Emergency Services

The Office of Emergency Services (OES) contends that the test claim legislation is not a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. OES argues that the test claim legislation does not require local agencies to use SEMS. OES states the following:

> Equally clear is section 8607(e) that, unlike subsection (d), does not require the use of SEMS for local agencies, but rather provides an incentive for participation, i.e., the potential for funding of personnel-related response costs under the Natural Disaster Assistance Act. [Footnote omitted.] (Government Code sec. 8680 et seq.) This relatively small part of the overall post-disaster funding potentially available to local governments is still subject to eligibility requirements not relating to SEMS and predating SEMS, not the least of which is a requirement that the Legislature appropriate funds necessary to provide the relief. (Government Code sec. 8685.)[44]

OES further states that:

> Even if there was a direct cause and effect relationship between compliance with SEMS and forfeiture of the personnel cost reimbursement, the claimant's arguments about the impact of a failure to comply with SEMS certainly does not meet the "certain and severe penalties" such as "double … taxations" and other "draconian" thresholds affirmed by the California Supreme Court. (*Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 751.) We certainly agree that when a community is rebuilding its public infrastructure after a disaster, every dollar is important. However, compliance with SEMS does not substantially affect the rebuilding that often equates to tens of millions of dollars. [Footnote omitted.] Lack of compliance with SEMS can only impact a sliver of a community's overall cost recovery, and then only if all other eligibility criteria are met and the Legislature appropriates the funding.[45]

OES contends that "SEMS is used by local government, not because of a statutory or regulatory mandate, but because of its inherent benefits including the cost savings resulting from more efficient response to disasters."[46]

Finally, with regard to the two incidents alleged by claimant with personnel –related costs totaling $600,000, OES states that the claimant "received approximately $5.6 million dollars in federal and state financial assistance as a result of the two disasters…"[47] OES also states that it

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[43] *Id*. at page 5.

[44] OES comments dated September 9, 2004, page 1.

[45] *Id.* at page 2.

[46] *Ibid*.

[47] *Id*. at page 2, footnote 3.

provides annual grant funds to counties to implement SEMS or other emergency management programs, and that the claimant has requested and received approximately $282,000 since the inception of SEMS.[48]

Discussion

The courts have found that article XIII B, section 6 of the California Constitution[49] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[50] "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[51] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[52] In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.[53]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[54] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

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[48] *Id*. at page 3, footnote 4.

[49] Article XIII B, section 6, subdivision (a) provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

[50] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

[51] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[52] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[53] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.)*; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

[54] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

legislation.[55] A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."[56]

Finally, the newly required activity or increased level of service must impose costs mandated by the state.[57]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[58] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[59]

Issue 1: Do Government Code section 8607 and the SEMS regulations adopted by OES (Code of Regs., tit. 19, §§ 2400-2450) constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution?

In the present case, the Los Angeles Superior Court determined that the SEMS program constitutes a new program or higher level of service within the meaning of article XIII B, section 6. This conclusion is final and can no longer be challenged by the parties.[60] Thus, the sole issue on remand is whether the test claim legislation constitutes a reimbursable state-mandated program.

The claimant argues the Commission should defer to the statements of the Los Angeles County Superior Court, "find[ing] Petitioner's position on the [state mandate] issue more persuasive" and approve this test claim. The court's statement, however, does not constitute a conclusion of law with respect to the state-mandate issue since the court remanded the issue back to the Commission based on the Supreme Court's directive in *Lucia Mar*.[61] The court agreed, based on *Lucia Mar*, that the Commission has the duty to decide "in the first instance" whether a statute constitutes a reimbursable state-mandated program.

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[55] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878; *Lucia Mar, supra,* 44 Cal.3d 830, 835.

[56] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878.

[57] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[58] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[59] *County of Sonoma, supra,* 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[60] *George Arakelian Farms, Inc. v. Agricultural Labor Relations Board* (1989) 49 Cal.3d 1279, 1291. (Exhibit G.)

[61] *Lucia Mar, supra*, 44 Cal.3d 830, 837.

> In *Lucia Mar*, the Supreme Court held that whether test claim legislation constitutes a state mandate is for the Commission on State Mandates to determine, "as it is charged by section 17551 of the Government Code with the duty to decide in the first instance whether a local agency is entitled to reimbursement under section 6 of article XIII B." [Citation to *Lucia Mar* omitted.] Because the Commission here did not reach the mandate issue, that issue must be remanded. [62]

As more fully described below, the Commission finds that Government Code section 8607 and the SEMS regulations adopted by OES (Code of Regs., tit. 19, §§ 2400-2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution based on the Supreme Court's 2003 decision in *Kern High School Dist., supra*, 30 Cal.4th 727, and other cases.

The courts have continued to hold that *not* all costs incurred by a local entity as a result of a new program or higher level of service are reimbursable under article XIII B, section 6. "Section 6 was not intended to entitle local entities to reimbursement for all increased costs resulting from legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State."[63] Thus, even if a statute constitutes a new program or higher level of service, it does not necessarily lead to the conclusion that a cost incurred by the local entity is state-mandated and, thus reimbursable under article XIII B, section 6.[64] The courts have strictly construed the meaning and effects of statutes analyzed under article XIII B, section 6, and have not applied section 6 as an equitable remedy:

> A strict construction of section 6 is in keeping with the rules of constitutional interpretation, which require that constitutional limitations and restrictions on legislative power "are to be construed strictly, and are not to be extended to include matters not covered by the language used." [Citations omitted.]["Under our form of government, policymaking authority is vested in the Legislature and neither arguments as to the wisdom of an enactment nor questions as to the motivation of the Legislature can serve to invalidate particular legislation."] Under these principles, there is no basis for applying section 6 as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding policies.[65]

The test claim statute, Government Code section 8607, subdivision (d), requires all state agencies to use SEMS to coordinate multiple jurisdiction or multiple agency emergency and disaster operations: "By December 1, 1996, all state agencies shall use [SEMS] …" Government Code section 8607, subdivision (e), on the other hand, states that "each local agency, *in order to be eligible for any funding of response-related [personnel] costs under disaster assistance*

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[62] Court's Decision on Submitted Matter, page 5.

[63] *City of San Jose, supra*, 45 Cal.App.4th 1802, 1816; *Lucia Mar Unified School Dist., supra,* 44 Cal.3d 830, 835; *Kern High School Dist., supra,* 30 Cal.4th 727, 735; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1189-1190.

[64] *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, 815.

[65] *City of San Jose, supra*, 45 Cal.App.4th 1802, 1816-1817.

programs, shall use the standardized emergency management system [SEMS] …" (Emphasis added.) Section 2401 of the OES regulations contains similar language. If an agency participates in SEMS, the agency is required to perform a number of activities to coordinate the emergency response between multiple agencies, including the preparation of an after-action report and training.

As correctly asserted by the claimant, local agencies received state funding pursuant to the Natural Disaster Assistance Act under prior law, following an application and an appropriation made by the Legislature, to pay for disaster-related expenses, including personnel costs, "without any [further] strings attached." [66]

Nevertheless, for the reasons below, the Legislature's imposition of conditions on a local agency's eligibility to receive response-related personnel funding following an emergency or disaster does not constitute a reimbursable state mandate within the meaning of article XIII B, section 6 of the California Constitution.

In 2003, after the Los Angeles Superior Court issued its judgment and writ in this case, the California Supreme Court decided the *Kern High School Dist.* case and considered the meaning of the term "state mandate" as it appears in article XIII B, section 6 of the California Constitution.[67] In *Kern High School Dist.*, school districts requested reimbursement for notice and agenda costs for meetings of their school site councils and advisory bodies. These bodies were established as a condition of various education-related programs that were funded by the state and federal government.

When analyzing the term "state mandate," the court reviewed the ballot materials for article XIII B, which provided that "a state mandate comprises something that a local government entity is required or forced to do."[68] The ballot summary by the Legislative Analyst further defined "state mandates" as "requirements imposed on local governments by legislation or executive orders." [69]

The court also reviewed and affirmed the holding of *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, determining that, when analyzing state-mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled. [70] The court stated the following:

> In *City of Merced*, the city was under no legal compulsion to resort to eminent domain-but when it elected to employ that means of acquiring property, its obligation to compensate for lost business goodwill was not a reimbursable state mandate, because the city was not required to employ eminent domain in the first place. Here as well, if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the

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[66] Government Code sections 8680.4, 8680.5, 8685, 8685.4.

[67] *Kern High School Dist., supra*, 30 Cal.4th 727.

[68] *Id.* at page 737.

[69] *Ibid*.

[70] *Id.* at page 743.

> district's obligation to comply with the notice and agenda requirements related to that program does not constitute a reimbursable state mandate. (Emphasis in original.)[71]

Thus, the Supreme Court held as follows:

> [W]e reject claimants' assertion that they have been legally compelled to incur notice and agenda costs, and hence are entitled to reimbursement from the state, based merely upon the circumstance that notice and agenda provisions are mandatory elements of education-related programs in which claimants have participated, *without regard to whether claimant's participation in the underlying program is voluntary or compelled.* [Emphasis added.][72]

Based on the plain language of the statutes creating the underlying education programs in *Kern High School Dist.*, the court determined that school districts were not legally compelled to participate in eight of the nine underlying programs.[73]

Similarly, local agencies here are not legally compelled to comply with SEMS. Under the rules of statutory construction, when the statutory language is plain, the court is required to enforce the statute according to its terms. The California Supreme Court determined that:

> In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted.][74]

Moreover, the court may not disregard or enlarge the plain provisions of a statute, nor may it go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the court is prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.[75] In addition, where materially different words are used in the same connection in different parts of the statute, it will be presumed that the Legislature intended different meanings.[76]

Here, the Legislature used materially different words when directing the participation in SEMS by state and local agencies. The plain language of Government Code section 8607 mandates state agencies to use SEMS, but only requires local agencies to use SEMS in order to be eligible for response-related personnel costs under the disaster assistance programs. Thus, while SEMS imposes a mandate on the state, it must be presumed that the Legislature did not intend that

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[71] *Ibid.*

[72] *Id.* at page 731.

[73] Id. at pages 744-745.

[74] *Estate of Griswald* (2001) 25 Cal.4th 904, 910-911. (Exhibit G.)

[75] *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757. (Exhibit G.)

[76] *People v. Trevino* (2001) 26 Cal.4th 237, 242. (Exhibit G.)

SEMS impose a mandate on local agencies. This interpretation is shared by OES, the agency directed by the Legislature to implement and enforce the SEMS program. In May 1996, the OES issued Bulletin L1-1 on SEMS.[77] The Bulletin states in relevant part that "[u]nder state law and regulations adopted by the Governor's Office of Emergency Services, SEMS is a discretionary activity by local government." The construction given to a statute by the administrative officials charged with its enforcement or implementation is entitled to great weight.[78]

The claimant concedes that Government Code section 8607, subdivision (e), and the corresponding regulations appear voluntary on its face. But the claimant contends that the "financial penalties" imposed for noncompliance with SEMS makes the program mandatory.[79] The claimant states that the "initial decision" to participate in the program creates the "financial penalties."[80] A similar argument was raised by the school districts in *Kern High School Dist.*, and rejected by the court based on the facts of the case.[81]

In *Kern High School Dist.*, the school districts urged the court to define "state mandate" broadly to include situations where participation in the program is coerced as a result of severe penalties that would be imposed for noncompliance. The court previously applied such a broad construction to the definition of a federal mandate in the case of *City of Sacramento v. State* (1990) 50 Cal.3d 51, 74, where the state's failure to comply with federal legislation that extended mandatory coverage under the state's unemployment insurance law would result in California businesses facing "a new and serious penalty – full, double unemployment taxation by both state and federal governments."[82] Although the court in *Kern High School Dist.* declined to apply the reasoning in *City of Sacramento* that a state mandate may be found in the absence of strict legal compulsion, after reflecting on the purpose of article XIII B, section 6 – to preclude the state from shifting financial responsibilities onto local agencies – the court stated: "In light of that purpose, we do not foreclose the possibility that a reimbursable state mandate under article XIII B, section 6, properly might be found in some circumstances in which a local

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[77] Administrative Record for CSM 4506, page 308.

[78] *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7.

[79] Claimant's rebuttal comments dated October 14, 2004.

[80] Claimant's comments to draft staff analysis, page 3.

[81] To support its argument, claimant cites a rule of statutory construction that "where a legislative provision is accompanied with a penalty for failure to observe it, the provision is mandatory." (58 Cal.Jur.3d, Statutes 149, pp. 545-546.) The cases cited by the claimant, however, each deal with specific circumstances where a statutory provision requires certain action to be taken within specified time limits. The cases cited by claimant, however, do not involve questions of state-mandated costs within the meaning of article XIII B, section 6 and are, therefore, not relevant. Rather, the Commission finds that the California Supreme Court's decision in *Kern High School Dist., supra,* 30 Cal.4th 727, is directly on point and applies here.

[82] *City of Sacramento, supra*, 50 Cal.3d 51, 74.

entity is not legally compelled to participate in a program that requires it to expend additional funds."[83]

However, the court in *Kern High School Dist*. found that the facts before it failed to amount to such a "de facto" mandate. The court concluded that:

> [T]he circumstances presented in the case before us do not constitute the type of nonlegal compulsion that reasonably could constitute, in claimants' phrasing, a "de facto" reimbursable state mandate. Contrary to the situation that we described in City of Sacramento … a claimant that elects to discontinue participation in one of the programs here at issue does not face "certain and severe … penalties" such as "double … taxation" or other "draconian" consequences … but simply must adjust to the withdrawal of grant money along with the lifting of program obligations. Such circumstances do not constitute a reimbursable state mandate for purposes of article XIII B, section 6.[84]

The court reasoned as follows:

> Although it is completely understandable that a participant in a funded program may be disappointed when additional requirements (with their attendant costs) are imposed as a condition of continued participation in the program, just as such a participant would be disappointed if the total amount of the annual funds provided for the program were reduced by legislative or gubernatorial action, the circumstances that the Legislature has determined that the requirements of an ongoing elective program should be modified does not render a local entity's decision whether to continue its participation in the modified program any less voluntary.[85]

The court's reasoning applies to this case. If a local agency decides not to participate in SEMS, or elects to discontinue participation in the program, the agency does not face "certain and severe penalties" such as "double taxation" or other "draconian measures." It simply loses its right to apply for state funding to assist the local agency in paying for its response-related *personnel* costs. The agency would still be eligible to receive funding for repair, renovation, or other non-personnel costs resulting from an emergency.[86]

In this respect, the claimant states that "[w]e would agree that the impact of the forfeiture in comparison to the overall cost recovery *could* be small … [h]owever, the dollars for disaster response personnel costs could be large." (Emphasis in original.)[87] There is no evidence in the law or in the record, however, that the reduced funding amounts to a "certain and severe" penalty imposed on a local agency. As stated by the California Supreme Court, "[a]lthough it is

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[83] *Kern High School Dist., supra*, 30 Cal.4th 727, 752.

[84] *Id*. at page 754.

[85] *Id.* at pages 753-754.

[86] Government Code section 8607, subdivision (e)(2); California Code of Regulations, title 19. sections 2401, 2443.

[87] Claimant comments dated October 14, 2004, page 2.

completely understandable that a participant in a funded program may be disappointed when additional requirements (with their attendant costs) are imposed as a condition of continued participation in the program . . . the circumstances that the Legislature has determined that the requirements of an ongoing elective program should be modified does not render a local entity's decision whether to continue its participation in the modified program any less voluntary."[88] Rather, the courts have continued to find that the Legislature's decision to withdraw or reduce state funding previously available to local agencies does not violate the purpose behind article XIII B, section 6 and, thus, does not, in itself, constitute a reimbursable state mandate.[89]

Finally, the claimant argues that *if* the Legislature intended SEMS to be voluntary, then the Legislature would not have required counties to be responsible for the "middle cog of the process" at the operational level of SEMS. The claimant contends that "[t]he County is required to be an integral part of the process."[90] The Commission disagrees with this argument. The test claim statute, Government Code section 8607, provides that SEMS must include "the operational area concept, as defined in [Government Code] Section 8559." Government Code section 8559 was enacted in 1970 (and derives from the 1943 California Disaster Act in the Military and Veterans Code). Section 8559 defines an "operational area" as "an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area." OES included the operational area concept in SEMS when it adopted the regulations to implement the program. The "operational area level" of SEMS is defined in section 2409 of the OES regulations to mean "an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area." The regulation also states that "each county geographic area is designated as an operational area." The regulation, however, recognizes that a local agency's participation in the SEMS program is not mandatory with the language in subdivision (c), which expressly states that "[t]he operational area authority and responsibility under SEMS *shall not be affected by non-participation of any local government(s) within the operational area*." (Emphasis added.)

Therefore, the Commission finds that Government Code section 8607 and the SEMS regulations adopted by OES (Code of Regs., tit. 19, §§ 2400-2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

CONCLUSION

Based on the foregoing, the Commission concludes that Government Code section 8607 and the SEMS regulations adopted by OES (Code of Regs., tit. 19, §§ 2400-2450) do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

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[88] *Kern High School Dist., supra,* 30 Cal.4th 727, 753-754.

[89] *Id.* at page 748; see also, *County of Sonoma, supra,* 84 Cal. App.4th 1264, 1285, and *County of Los Angeles, supra,* 32 Cal.App.4th 805, 817-818.

[90] Claimant's comments to draft staff analysis, page 5.



Developing and Maintaining Emergency Operations Plans

Comprehensive Preparedness Guide (CPG) 101

Version 2.0

November 2010

FEMA

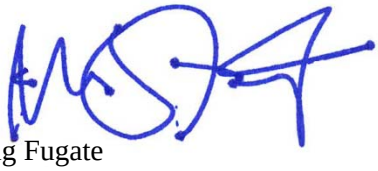
I am pleased to announce the release of Version 2.0 of *Comprehensive Preparedness Guide 101: Developing and Maintaining Emergency Operations Plans*.

Comprehensive Preparedness Guide (CPG) 101 provides guidance for developing emergency operations plans. It promotes a common understanding of the fundamentals of risk-informed planning and decision making to help planners examine a hazard or threat and produce integrated, coordinated, and synchronized plans. The goal of CPG 101 is to assist in making the planning process routine across all phases of emergency management and for all homeland security mission areas. This Guide helps planners at all levels of government in their efforts to develop and maintain viable, all-hazards, all-threats emergency plans.

Based on input from state, territorial, tribal, and local officials from across the United States, this update of CPG 101 expands on the fundamentals contained in the first version. With this edition, greater emphasis is placed on representing and engaging the whole community—to include those with access and functional needs, children, and those with household pets and service animals.

Residents and all sectors of the community have a critical role and shared responsibility to take appropriate actions to protect themselves, their families and organizations, and their properties. Planning that engages and includes the whole community serves as the focal point for building a collaborative and resilient community.

CPG 101 is the foundation for state, territorial, tribal, and local emergency planning in the United States. Planners in other disciplines, organizations, and the private sector, as well as other levels of government, may find this Guide useful in the development of their emergency operations plans. While CPG 101 maintains its link to previous guidance, it also reflects the reality of the current operational planning environment. This Guide integrates key concepts from national preparedness policies and doctrines, as well as lessons learned from disasters, major incidents, national assessments, and grant programs.



W. Craig Fugate
Administrator, Federal Emergency Management Agency

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Preface

Comprehensive Preparedness Guide (CPG) 101 provides Federal Emergency Management Agency (FEMA) guidance on the fundamentals of planning and developing emergency operations plans (EOP). CPG 101 shows that EOPs are connected to planning efforts in the areas of prevention, protection, response, recovery, and mitigation. Version 2.0 of this Guide expands on these fundamentals and encourages emergency and homeland security managers to engage the whole community in addressing all risks that might impact their jurisdictions.

While CPG 101 maintains its link to previous guidance, it also reflects the reality of the current operational planning environment. This Guide integrates key concepts from national preparedness policies and doctrines, as well as lessons learned from disasters, major incidents, national assessments, and grant programs. CPG 101 provides methods for planners to:

- Conduct community-based planning that engages the whole community by using a planning process that represents the actual population in the community and involves community leaders and the private sector in the planning process
- Ensure plans are developed through an analysis of risk
- Identify operational assumptions and resource demands
- Prioritize plans and planning efforts to support their seamless transition from development to execution for any threat or hazard
- Integrate and synchronize efforts across all levels of government.

CPG 101 incorporates the following concepts from operational planning research and day-to-day experience:

- The process of planning is just as important as the resulting document.
- Plans are not scripts followed to the letter, but are flexible and adaptable to the actual situation.
- Effective plans convey the goals and objectives of the intended operation and the actions needed to achieve them.

Successful operations occur when organizations know their roles, understand how they fit into the overall plan, and are able to execute the plan.

This Guide is part of a series of CPGs published by FEMA. CPG 101 discusses the steps used to produce an EOP, possible plan structures, and components of a basic plan and its annexes. CPGs provide detailed information about planning considerations for specific functions, hazards, and threats.

CPG 101 is the foundation for state, territorial, tribal, and local emergency planning in the United States. Planners in other disciplines, organizations, and the private sector, as well as other levels of government, may find this Guide useful in the development of their EOPs.

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Introduction and Overview

Purpose

Comprehensive Preparedness Guide (CPG) 101 provides guidelines on developing emergency operations plans (EOP). It promotes a common understanding of the fundamentals of risk-informed planning and decision making to help planners examine a hazard or threat and produce integrated, coordinated, and synchronized plans. The goal of CPG 101 is to make the planning process routine across all phases of emergency management and for all homeland security mission areas. This Guide helps planners at all levels of government in their efforts to develop and maintain viable all-hazards, all-threats EOPs. Accomplished properly, planning provides a methodical way to engage the whole community in thinking through the life cycle of a potential crisis, determining required capabilities, and establishing a framework for roles and responsibilities. It shapes how a community envisions and shares a desired outcome, selects effective ways to achieve it, and communicates expected results. Each jurisdiction's plans must reflect what that community will do to address its specific risks with the unique resources it has or can obtain.

> *"Let our advance worrying become advanced thinking and planning."*
>
> Winston Churchill

Planners achieve unity of purpose through coordination and integration of plans across all levels of government, nongovernmental organizations, the private sector, and individuals and families. This supports the fundamental principle that, in many situations, emergency management and homeland security operations start at the local level and expand to include Federal, state, territorial, tribal, regional, and private sector assets as the affected jurisdiction requires additional resources and capabilities. Plans must, therefore, integrate vertically to ensure a common operational focus. Similarly, horizontal integration ensures that individual department and agency EOPs fit into the jurisdiction's plans, and that each department or agency understands, accepts, and is prepared to execute identified mission assignments. Incorporating vertical and horizontal integration into a shared planning community ensures that the sequence and scope of an operation are synchronized.

A shared planning community increases the likelihood of integration and synchronization, makes planning cycles more efficient and effective, and makes plan maintenance easier.

Applicability and Scope

The Federal Emergency Management Agency (FEMA) recommends that teams responsible for developing EOPs use CPG 101 to guide their efforts. It provides a context for emergency planning in light of other existing plans and describes a universal planning process. This Guide recognizes that many jurisdictions across the country have already developed EOPs that address many emergency management operations. Therefore, CPG 101 establishes no immediate requirements, but suggests that the next iteration of all EOPs follow this guidance.

Additionally, regulatory requirements may necessitate the use of additional guides for the development of certain EOP annexes (e.g., the requirements for the Radiological Emergency Preparedness Program). CPG 101 has been designed to complement the use of those guides where required by law or regulation.

Supersession

CPG 101 replaces State and Local Guide 101, which is rescinded. In addition, CPG 101 Version 2.0 supersedes CPG 101 Version 1.0, which is rescinded. CPG 101 Version 2.0 also supersedes the Interim CPG 301, which is rescinded.

How to Use This Guide

CPG 101 is designed to help both novice and experienced planners navigate the planning process. Used in its entirety, this Guide provides information and instruction on the fundamentals of planning and their application. Chapters 1 and 2 lay the foundation for planning efforts by providing information on the basics of planning (Chapter 1) and the environment within which planners function (Chapter 2). With an understanding of these fundamentals, the Guide then transitions from theory to practice by discussing the different plan formats and functions (Chapter 3) and moving into an explanation of the planning process (Chapter 4). A detailed checklist, building upon Chapters 3 and 4, is provided in Appendix C. Because Appendix C provides a set of detailed questions to consider throughout the planning process, users are encouraged to copy or remove this checklist and employ it as they work through the planning process in Chapter 4.

Suggested Training

To use this Guide to its fullest, users will benefit from training in emergency management and emergency planning. Appendix D provides a suggested list of training courses to increase users' understanding of emergency management and emergency planning concepts.

National Incident Management System Implementation

In November 2005, FEMA's National Integration Center published guides for integrating National Incident Management System (NIMS) concepts into EOPs.[1] CPG 101 incorporates the concepts and suggestions found in those documents, which have been discontinued.

Administrative Information

Terms and acronyms in the text come from the FEMA Acronyms, Abbreviations, and Terms; the National Response Framework (NRF); the NIMS; or the Homeland Security Act of 2002. Websites referenced in this Guide were active at the time of its publication.

CPG 101 uses the following contextual definitions for incident, state, and local government throughout the document:

- ***Incident*** means an occurrence or event—natural, technological, or human-caused—that requires a response to protect life, property, or the environment (e.g., major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wildland and urban fires, floods, hazardous materials [HAZMAT] spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical

[1] *State NIMS Integration: Integrating the National Incident Management System into State Emergency Operations Plans and Standard Operating Procedures*
Local and Tribal NIMS Integration: Integrating the National Incident Management System into Local and Tribal Emergency Operations Plans and Standard Operating Procedures

storms, tsunamis, war-related disasters, public health and medical emergencies, other occurrences requiring an emergency response).

- ***State*** means any state of the United States, and includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, a Native American Tribe or organization,[2] an Alaska native village or Regional Native Corporation, and any possession of the United States.
- ***Local government*** means:
  - A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a not-for-profit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government
  - A rural community, unincorporated town or village, or other public entity.

Revision Process

FEMA will revise CPG 101, as needed, and issue change pages through the publication distribution system and online through approved sources.

FEMA welcomes recommendations on how to improve this Guide so it better serves the needs of the emergency management community. Provide recommendations for improving this Guide to: NPD-Planning@dhs.gov, ATTN: CPG Initiative – 101.

[2] FEMA recognizes that a tribe's right of self-government flows from the inherent sovereignty of tribes as nations and that the Federally-recognized tribes have a unique and direct relationship with the Federal Government.

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1. The Basics of Planning

Overview

The elected and appointed leaders in each jurisdiction are responsible for ensuring that necessary and appropriate actions are taken to protect people and property from any threat or hazard. When threatened by any hazard, citizens expect elected or appointed leaders to take immediate action to help them resolve the problem. Citizens expect the government to marshal its resources, channel the efforts of the whole community—including voluntary organizations and the private sector—and, if necessary, solicit assistance from outside the jurisdiction.

Residents and all sectors of the community have a critical role and shared responsibility to take appropriate actions to protect themselves, their families and organizations, and their properties. Planning that includes the whole community builds a resilient community.[3]

This chapter serves as a foundation for the rest of the Guide by providing an overview of the basics of planning. It describes how risk-informed, community-based planning supports decision making. This chapter also discusses key planning concepts, effective planning, and planning pitfalls.

Planning Fundamentals

Planning Principles

Applying the following principles to the planning process is key to developing an all-hazards plan for protecting lives, property, and the environment:

> ***Community-based planning*** is the concept that planning must not only be representative of the actual population within the community, but also must involve the whole community in the planning process. The process for engaging the whole community in community-based planning is discussed in Chapter 4.

Planning must be community-based, representing the whole population and its needs. Understanding the composition of the population—such as accounting for people with disabilities, others with access and functional needs, and for the needs of children—must occur from the outset of the planning effort. For example, the demographics of the population, including its resources and needs, have a profound effect on evacuation, shelter operations, and family reunification.[4] Another key consideration is the integration of household pets and service animals into the planning process. Many individuals may make decisions on whether to comply with protective action measures based on the jurisdiction's ability to address the concerns about their household pets and service animals. Establishing a profile of the community will also let planners know if courses of action are feasible. For example, if the majority of the actual resident population do not own cars, then planning efforts must account for greater transportation resource requirements than if the population was predominately composed of car-owning households. The businesses that comprise your jurisdiction must also be a part of your demographics—your jurisdiction

[3] Per the Department of Homeland Security Risk Lexicon (http://www.dhs.gov/xlibrary/assets/dhs_risk_lexicon.pdf), resiliency is the ability for governments, infrastructures, systems, businesses, and citizenry to resist, absorb, recover from, or adapt to an adverse occurrence that may cause harm or destruction to our health, safety, economic well-being, essential services, or public confidence.
[4] Planners should ensure compliance with the requirements of Title VI of the Civil Rights Act of 1964, Executive Order 13166, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and other Federal, state, or local laws and anti-discrimination laws.

may house the only business providing a critical resource to your area or the Nation. By fully understanding the composition and requirements of the actual population (including all segments of the community), community-based plans will lead to improved response and recovery activities and, ultimately, overall preparedness.

Planning must include participation from all stakeholders in the community. Effective planning ensures that the whole community is represented and involved in the planning process. The most realistic and complete plans are prepared by a diverse planning team, including representatives from the jurisdiction's departments and agencies, civic leaders, businesses, and organizations (e.g., civic, social, faith-based, humanitarian, educational, advocacy, professional) who are able to contribute critical perspectives and/or have a role in executing the plan. The demographics of the community will aid in determining who to involve as the planning team is constructed. Including community leaders representative of the entire community in planning reinforces the expectation that the community members have a shared responsibility and strengthens the public motivation to conduct planning for themselves, their families, and their organizations. For example, it is essential to incorporate individuals with disabilities or specific access and functional needs and individuals with limited English proficiency, as well as the groups and organizations that support these individuals, in all aspects of the planning process. When the plan considers and incorporates the views of the individuals and organizations assigned tasks within it, they are more likely to accept and use the plan.

Planning uses a logical and analytical problem-solving process to help address the complexity and uncertainty inherent in potential hazards and threats. By following a set of logical steps that includes gathering and analyzing information, determining operational objectives, and developing alternative ways to achieve the objectives, planning allows a jurisdiction or regional response structure to work through complex situations. Planning helps a jurisdiction identify the resources at its disposal to perform critical tasks and achieve desired outcomes/target levels of performance. Rather than concentrating on every detail of how to achieve the objective, an effective plan structures thinking and supports insight, creativity, and initiative in the face of an uncertain and fluid environment. While using a prescribed planning process cannot guarantee success, inadequate plans and insufficient planning are proven contributors to failure.

Planning considers all hazards and threats. While the causes of emergencies can vary greatly, many of the effects do not. Planners can address common operational functions in their basic plans instead of having unique plans for every type of hazard or threat. For example, floods, wildfires, HAZMAT releases, and radiological dispersal devices may lead a jurisdiction to issue an evacuation order and open shelters. Even though each hazard's characteristics (e.g., speed of onset, size of the affected area) are different, the general tasks for conducting an evacuation and shelter operations are the same. Planning for all threats and hazards ensures that, when addressing emergency functions, planners identify common tasks and those responsible for accomplishing the tasks.

Planning should be flexible enough to address both traditional and catastrophic incidents. Scalable planning solutions are the most likely to be understood and executed properly by the operational personnel who have practice in applying them. Planners can test whether critical plan elements are sufficiently flexible by exercising them against scenarios of varying type and magnitude. In some cases, planners may determine that exceptional policies and approaches are necessary for responding to and recovering from catastrophic incidents. These exceptional planning solutions should be documented within plans, along with clear descriptions of the triggers that indicate they are necessary.

Plans must clearly identify the mission and supporting goals (with desired results). More than any other plan element, the clear definition of the mission and supporting goals (which specify desired results/end-states) enables unity of effort and consistency of purpose among the multiple groups and

activities involved in executing the plan. Every other plan element should be designed and evaluated according to its contributions to accomplishing the mission and achieving the goals and desired results.

Planning depicts the anticipated environment for action. This anticipation promotes early understanding and agreement on planning assumptions and risks, as well as the context for interaction. In situations where a specific hazard has not been experienced, planning provides the opportunity to anticipate conditions and systematically identify potential problems and workable solutions. Planners should review existing EOPs to ensure current assumptions are still necessary and valid. After-action reports (AAR) of recent emergency operations and exercises in the jurisdiction will help planners develop a list of lessons learned to address when updating plans.

Planning does not need to start from scratch. Planners should take advantage of the experience of other planners, as well as plans generated by other jurisdictions. Further, many states publish their own standards and guidance for emergency planning, conduct workshops and training courses, and assign their planners to work with local planners. FEMA offers resident, locally presented, and independent study emergency planning courses. FEMA also publishes guidance related to planning for specific functions and risks. By participating in this training and reviewing existing emergency or contingency plans, planners can:

Key infrastructure sectors, often owned and operated by the private sector, are frequently well prepared to maintain their business continuity and protect their employees. Their planning often follows recognized industry standards or established regulatory requirements. Use key infrastructure planning to complement State and local planning.

- Identify applicable authorities and statutes
- Gain insight into community risk perceptions
- Identify organizational arrangements used in the past
- Identify mutual aid agreements (MAA) with other jurisdictions
- Identify private sector planning that can complement and focus public sector planning
- Learn how historical planning issues were resolved
- Identify preparedness gaps.

Planning identifies tasks, allocates resources to accomplish those tasks, and establishes accountability. Decision makers must ensure that they provide planners with clearly established priorities and adequate resources; additionally, planners and plan participants should be held accountable for effective planning and execution.

Planning includes senior officials throughout the process to ensure both understanding and approval. Potential planning team members have many day-to-day concerns but must be reminded that emergency planning is a high priority. Senior official buy-in helps the planning process meet requirements of time, planning horizons, simplicity, and level of detail. The more involved decision makers are in planning, the better the planning product will be.

The emergency or homeland security planner, hereafter referred to simply as “planner,” must reaffirm the senior official’s understanding that planning is an iterative, dynamic process that ultimately facilitates his or her job in a crisis situation by:

- Identifying and sharing the hazard, risk, and threat analyses for the jurisdiction
- Discussing readiness and capability assessments, as well as exercise critiques

- Describing what the government body and the senior official will have to do prior to, during, and after an incident to either prevent or minimize the incident's impact.

Senior officials play a critical role in determining when and which plans should be developed or revised. Additionally, they customarily have the authority to approve the final product in coordination with key stakeholders. By participating throughout the planning process, senior officials will better understand how to implement the plan during an incident.

Time, uncertainty, risk, and experience influence planning. These factors define the starting point where planners apply appropriate concepts and methods to create solutions to particular problems. Planning is, therefore, often considered to be both an art and a science in that successful planners are able to draw from both operational experience and an understanding of emergency management principles, but also are intuitive, creative, and have the ability to anticipate the unexpected. While the science and fundamental principles of planning can be learned through training and experience, the art of planning requires an understanding of the dynamic relationships among stakeholders, of special political considerations, and of the complexity imposed by the situation. Because this activity involves judgment and the balancing of competing demands, plans should not be overly detailed—to be followed by the letter—or so general that they provide insufficient direction. Mastering the balance of art and science is the most challenging aspect of becoming a successful planner.

Effective plans tell those with operational responsibilities what to do and why to do it, and they instruct those outside the jurisdiction in how to provide support and what to expect. Plans must clearly communicate to operational personnel and support providers what their roles and responsibilities are and how those complement the activities of others. There should be no ambiguity regarding who is responsible for major tasks. This enables personnel to operate as a productive team more effectively, reducing duplication of effort and enhancing the benefits of collaboration.

Planning is fundamentally a process to manage risk. Risk management is a process by which context is defined, risks are identified and assessed, and courses of action for managing those risks are analyzed, decided upon, and implemented, monitored, and evaluated. As part of the process, planning is a tool that allows for systematic risk management to reduce or eliminate risks in the future.

Planning is one of the key components of the preparedness cycle. The preparedness cycle (Figure 1.1) illustrates the way that plans are continuously evaluated and improved through a cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action.



Figure 1.1: The Preparedness Cycle

Strategic, Operational, and Tactical Planning

There are three tiers of planning: strategic planning, operational planning, and tactical (incident scene) planning. Strategic planning sets the context and expectations for operational planning, while operational planning provides the framework for tactical planning. All three tiers of planning occur at all levels of government.

Strategic plans describe how a jurisdiction wants to meet its emergency management or homeland security responsibilities over the long-term. These plans are driven by policy from senior officials and establish planning priorities.

Operational plans provide a description of roles and responsibilities, tasks, integration, and actions required of a jurisdiction or its departments and agencies during emergencies. Jurisdictions use plans to provide the goals, roles, and responsibilities that a jurisdiction's departments and agencies are assigned, and to focus on coordinating and integrating the activities of the many response and support organizations within a jurisdiction. They also consider private sector planning efforts as an integral part of community-based planning, and to ensure efficient allocation of resources. Department and agency plans do the same thing for the internal elements of those organizations. Operational plans tend to focus more on the broader physical, spatial, and time-related dimensions of an operation; thus, they tend to be more complex and comprehensive, yet less defined, than tactical plans.

Tactical plans focus on managing personnel, equipment, and resources that play a direct role in an incident response. Pre-incident tactical planning, based upon existing operational plans, provides the opportunity to pre-identify personnel, equipment, exercise, and training requirements. These gaps can then be filled through various means (e.g., mutual aid, technical assistance, updates to policy, procurement, contingency leasing).



Figure 1.2: Relationship Between Strategic, Operational, and Tactical Planning

Comprehensive and integrated planning can help other levels of government plan their response to an incident within a jurisdiction. By knowing the extent of the jurisdiction's capability, supporting planners can pre-identify shortfalls and develop pre-scripted resource requests.

Planning Approaches

Planners use a number of approaches, either singly or in combination, to develop plans:

- ***Scenario-based planning.*** This approach starts with building a scenario for a hazard or threat. Then, planners analyze the impact of the scenario to determine appropriate courses of action. Planners

typically use this planning concept to develop planning assumptions, primarily for hazard- or threat-specific annexes to a basic plan.

- ***Function-based planning (functional planning).*** This approach identifies the common functions that a jurisdiction must perform during emergencies. Function-based planning defines the function to be performed and some combination of government agencies and departments responsible for its performance as a course of action.
- ***Capabilities-based planning.*** This approach focuses on a jurisdiction's capacity to take a course of action. Capabilities-based planning answers the question, "Do I have the right mix of training, organizations, plans, people, leadership and management, equipment, and facilities to perform a required emergency function?" Some planners view this approach as a combination of scenario- and function-based planning because of its "scenario-to-task-to-capability" focus.

In reality, planners commonly use a combination of the three previous approaches to operational planning. This hybrid planning approach provides the basis for the planning process discussed in Chapter 4. Using the hybrid approach converts requirements generated by a scenario into goals and objectives that drive the planning process. It leads to a basic plan that describes overarching roles, relationships, and responsibilities with functional, hazard, and threat annexes that reflect sequencing of actions. A hybrid planning approach helps identify the courses of action that a jurisdiction must be able to take and the required functions it must perform based upon a comprehensive risk analysis; thus, it helps identify the capabilities a jurisdiction must have. FEMA strongly advocates the hybrid approach.

Plan Integration

National guidance and consensus standards expect that a jurisdiction's plans will be coordinated and integrated among all levels of government and with critical infrastructure planning efforts. The NIMS and NRF support a concept of layered operations. They recognize that all incidents start at the local level, and, as needs exceed resources and capabilities, Federal, state, territorial, tribal, regional, and private sector assets are applied. This approach means that planning must be vertically integrated to ensure that all response levels have a common operational focus. Similarly, planners at each level must ensure that department and supporting agency plans fit into their jurisdiction's concept of operations (CONOPS) through horizontal integration. Planners must also appropriately integrate the community's nongovernmental and private sector plans and resources.

Vertical integration is the meshing of planning both up and down the various levels of government. It follows the concept that the foundation for operations is at the local level and that support from Federal, state, territorial, tribal, regional, and private sector entities is layered onto the local activities. This means that as a planning team identifies a support requirement from a "higher level" during the planning process, the two levels work together to resolve the situation. Chapter 2 presents a concept for vertical integration.

Horizontal integration serves two purposes. First, it integrates operations across a jurisdiction. For example, an agency, department, or sector would write its plan or standard operating procedures/standard operating guidelines (SOPs/SOGs) for its role in an evacuation to fit the controlling jurisdiction's plan for such an evacuation. Horizontal integration allows departments and support agencies to produce plans that meet their internal needs or regulatory requirements and still integrate into the EOP. Second, horizontal integration ensures that a jurisdiction's set of plans supports its neighboring or partner jurisdictions' similar sets of plans. A jurisdiction's plan should include information about mission assignments that it executes in conjunction with, in support of, or with support from its neighbors or partners.

Plan Synchronization

The concept of sequencing creates effective EOPs that are synchronized in time, space, and purpose. Four planning concepts help sequence operations: phasing, branches, planning horizons, and forward and reverse planning.

Phasing. A phase is a specific part of an operation that is distinctly different from the ones that precede or follow. For example, a set of phases might include routine operations, heightened awareness, mobilization-activation-deployment, incident response, and transition to recovery. Planners often use the factors of time, distance, geography, resources, and critical events to define phase lengths.

Branches. A branch is an option built into an EOP. For example, a hurricane may affect a certain state by moving up its coast, by moving inland and traveling up a large bay, or by taking a more middle track that affects both areas. While many elements of the plan would be the same for all three scenarios, the change in track could affect response activities. Under the concept of branching, the hurricane annex of an EOP would provide options for each major contingency, therefore allowing the planner to anticipate different requirements and courses of action. Planners use branches only for major, critical options and not for every possible variation in the response.

Planning horizon. A planning horizon is a point in time that planners use to focus the planning effort. Because no one can predict when most incidents will occur, planners typically use planning horizons expressed in months to years when developing EOPs. For example, the base components of an EOP may be updated on a two- to three-year cycle, while key annexes may be on a shorter cycle. Since planners develop these plans with little or no specific knowledge of how a future incident will evolve, the plan must describe broad concepts that allow for quick and flexible operations. They must allow for several courses of action and project potential uses of organizations and resources during those operations. Planners should view plans as living contingency plans because they provide the starting point for response operations if and when an emergency occurs.

Forward and reverse planning. Forward planning starts with (assumed) present conditions and lays out potential decisions and actions forward in time, building an operation step-by-step toward the desired goal or objective. Conversely, reverse planning starts with the end in mind and works backward, identifying the objectives necessary and the related actions to achieve the desired end-state. When using reverse planning, it is essential to have a well-defined goal or objective. In practice, planners usually use a combination of the two methods: they use forward planning to look at what is feasible in the time allotted and use reverse planning to establish the desired goal (or end-state) and related objectives.

Common Planning Pitfalls

The most common planning pitfall is the development of lengthy, overly detailed plans that those responsible for their execution do not read. A plan that tries to cover every conceivable condition or that attempts to address every detail will only frustrate, constrain, and confuse those charged with its implementation. Successful plans are simple and flexible.

Another major pitfall faced by planners is failing to account for the community's needs, concerns, capabilities, and desire to help. Often, plans are written based on the "average citizen" or mirror image of the planners. However, communities are diverse and comprise a wide variety of people, including those with access and functional needs, those requiring the support of service animals, and those who cannot independently care for themselves, such as children. This also includes diverse racial and ethnic populations and immigrant communities. Failing to base planning on the demographics and requirements of the particular community may lead to false planning assumptions, ineffective courses of action, and inaccurate resource calculations. Related to this pitfall is the notion that responders are the only people

who can take action. The public often does their work before responders arrive. The community must be engaged in the planning process and included as an integral part of the plan.

Planning is only as good as the information on which it is based. Too often, planners rely on untested assumptions or uncoordinated resources. Planners should ensure that they have adequately validated assumptions and properly coordinated with those agencies/entities that they include in their plan. Planning needs may be coordinated directly with a required agency/entity via a memorandum of agreement (MOA)/memorandum of understanding (MOU) or by signatory of a designated representative.

Planning is not a theoretical process that occurs without an understanding of the community, nor is it a scripting process that tries to prescribe hazard actions and response actions with unjustified precision. Community-based plans provide a starting point for operations, adjusting as the situation dictates and as facts replace planning assumptions.

Planning Considerations

Emergency planning includes the key areas involved in addressing any threat or hazard: prevention, protection, response, recovery, and mitigation. Integrating the key areas as part of the overall planning effort allows jurisdictions to produce an effective EOP and advance overall preparedness.

Prevention consists of actions that reduce risk from human-caused incidents, primarily terrorism (see Figure 1.3). Prevention planning can also help mitigate secondary or opportunistic incidents that may occur after the primary incident. Incorporating prevention methods into the comprehensive planning process also helps a jurisdiction identify information or intelligence requirements that support the overall planning process.

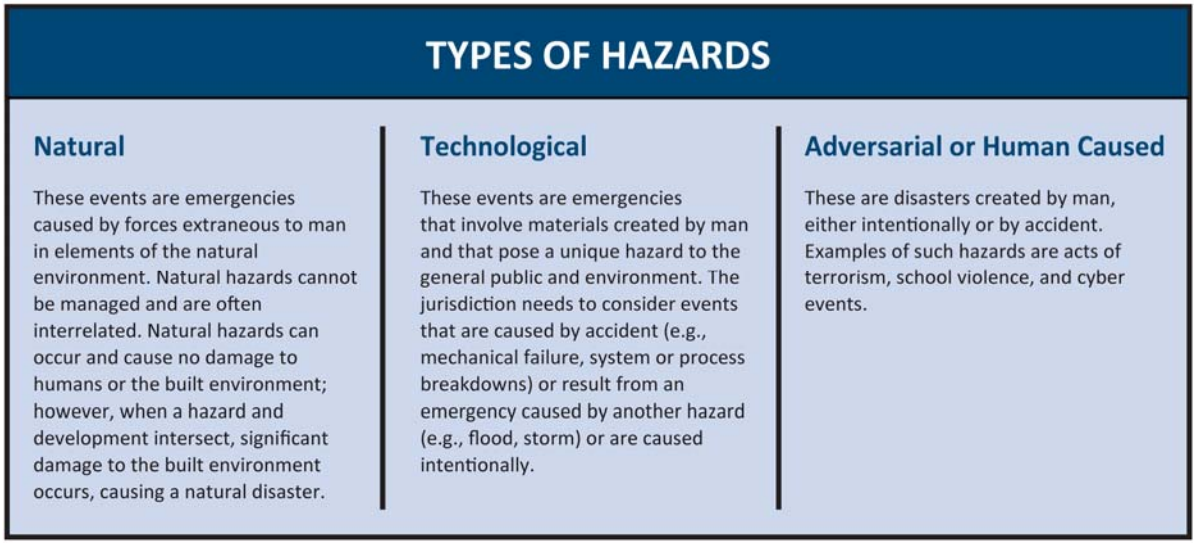


Figure 1.3: Types of Hazards

Protection reduces or eliminates a threat to people, property, and the environment. Primarily focused on adversarial incidents, the protection of critical infrastructure and key resources (CIKR) is vital to local jurisdictions, national security, public health and safety, and economic vitality. Protection planning safeguards citizens and their freedoms, critical infrastructure, property, and the economy from acts of terrorism, natural disasters, or other emergencies. It includes actions or measures taken to cover or shield

assets from exposure, injury, or destruction. Protective actions may occur before, during, or after an incident and prevent, minimize, or contain the impact of an incident.

Response embodies the actions taken in the immediate aftermath of an incident to save and sustain lives, meet basic human needs, and reduce the loss of property and the effect on critical infrastructure and the environment. Following an incident, response operations reduce the physical, psychological, social, and economic effects of an incident. Response planning provides rapid and disciplined incident assessment to ensure a quickly scalable, adaptable, and flexible response. It incorporates national response doctrine as presented in the NRF, which defines basic roles and responsibilities for incident response across all levels of government and the private sector.

Recovery encompasses both short-term and long-term efforts for the rebuilding and revitalization of affected communities. Recovery planning builds stakeholder partnerships that lead to community restoration and future sustainability and resiliency.[5] Recovery planning must provide for a near-seamless transition from response activities to short-term recovery operations—including restoration of interrupted utility services, reestablishment of transportation routes, and the provision of food and shelter to displaced persons. Planners should design long-term recovery plans to maximize results through the efficient use of resources and incorporate national recovery doctrine. A recovery plan should address:

- Recovery-related MAAs and regional compacts
- Prewritten emergency ordinances that facilitate recovery operations, such as those dealing with road closures, debris removal, and expedited permitting
- Continuity of government (COG) operations (may also be addressed in a separate continuity of operations [COOP] plan)
- Strategies for including civic leaders and the public in the recovery decision-making process
- Community efforts that affect mitigation processes with the potential to reduce the effects of a threat or incident.

Mitigation, with its focus on the impact of a hazard, encompasses the structural and non-structural approaches taken to eliminate or limit a hazard's presence; peoples' exposure; or interactions with people, property, and the environment. The emphasis on sustained actions to reduce long-term risk differentiates

Planning for Adaptive versus Non-Adaptive Risks

One of the fundamental challenges planners face is how to address, through their planning efforts, the differences in risk that a hazard or threat poses to a jurisdiction. One way to focus those efforts is to determine whether the hazard's or threat's risk is adaptive or non-adaptive. A hazard or threat shows adaptive risk if it has the ability to change its behavior or characteristics in reaction to protection, prevention, response, or recovery measures taken by a jurisdiction. Only human-caused hazards or adversarial threats, such as civil disturbances or terrorism, have adaptive risk characteristics. When facing a hazard or threat characterized by adaptive risk, planners must continually evaluate and evolve their plans as the adversary learns and adapts to existing plans. Natural and technological hazards fall into the category of non-adaptive risks. Their physical characteristics and disaster dimensions do not change when a jurisdiction takes preventive, protective, or mitigation measures. Plans for such hazards tend to be more stable, requiring change only as the characteristics of the jurisdiction change. Traditional mitigation activities are most appropriate to deal with these risks. It is important to remember that this is not a "black and white" differentiation—extremist groups may take the opportunity presented by a hurricane (non-adaptive risk) to launch a terrorist attack (adaptive risk).

[5] Sustainability refers to decision making that does not reduce the options of future generations, but passes on to them a natural, economic, and social environment that provides a high quality of life. Resiliency refers to the ability to resist, absorb, recover from, or successfully adapt to adversity or a change in conditions.

mitigation from those tasks that are required to survive an emergency safely. Examples of mitigation activities include:

- Complying with or exceeding National Flood Insurance Program floodplain management regulations
- Enforcing stringent building codes, flood-proofing requirements, seismic design standards, and wind-bracing requirements for new construction or repairing existing buildings
- Adopting zoning ordinances that steer development away from areas subject to flooding, storm surge, or coastal erosion
- Retrofitting public buildings to withstand ground shaking or hurricane-strength winds
- Acquiring damaged homes or businesses in flood-prone areas, relocating the structures, and returning the property to open space, wetlands, or recreational uses
- Building community shelters and tornado safe rooms to help protect people in their homes, public buildings, and schools in hurricane- and tornado-prone areas.

2. Understanding the Planning Environment: Federal, State, and Local Plans

Overview

Understanding the basics of planning is critical to the planner's role. Building on that understanding, this chapter explains the environment within which this planning occurs, outlines the links between different levels of government, and summarizes how planning considerations shape the content of the NRF, Federal plans, and state/local EOPs.

Relationship Between Federal Plans and State Emergency Operations Plans

Federal plans and state EOPs describe each respective government-level approach to emergency operations. Because these levels of government all provide support to emergency operations conducted at the local level, there are similar and overlapping functions in their plans.

As indicated in Chapter 1, all levels of government must coordinate plans vertically to ensure a singular operational focus. The goal is to ensure the effectiveness of combined Federal and state operations through integration and synchronization. Key concepts for a national planning structure—integration and synchronization—serve different but equally important purposes in linking Federal plans and state EOPs.

From the Federal perspective, integrated planning helps answer the question of how Federal agencies and departments add the right resources at the right time to support state and local operations. From the states' perspectives, integrated planning provides answers to questions about which other organizations to work with and where to obtain resources.

The National Incident Management System

NIMS provides a consistent framework for incident management, regardless of the cause, size, or complexity of the incident. NIMS provides the Nation's first responders and authorities with the same foundation for incident management for all hazards. The Incident Command System (ICS) is a critical component of NIMS and is used to manage all domestic incidents.

As part of the development of EOPs, institutionalizing NIMS means that government officials:

- Adopt NIMS through executive order, proclamation, or legislation as the jurisdiction's official incident response system
- Direct all incident managers and response organizations in their jurisdictions to train, exercise, and use NIMS in their response operations
- Integrate NIMS into functional, system-wide emergency operations policies, plans, and procedures
- Provide ICS training for responders, supervisors, and command-level officers
- Conduct exercises for responders at all levels, including responders from all disciplines and jurisdictions.

Depending on the jurisdiction, institutionalization means that an EOP should:

- Use ICS and the multiagency coordination system to manage and support all incidents, including recurring and/or planned special events
- Integrate all response agencies and entities into a single, seamless system, from the incident command post, to the department emergency operations centers (EOC) and local EOCs, to the state EOC, and to regional- and national-level entities
- Develop and implement a public information plan
- Identify and characterize all resources according to established standards and types
- Ensure that all personnel are trained properly for the jobs they perform and the training is validated
- Ensure interoperability, accessibility, and redundancy of communications.

Planners should consider each of these requirements as they develop or revise their jurisdiction's EOP.

The National Response Framework

The NRF is a guide to how the Nation conducts all-hazards incident response. The NRF states that each Federal department or agency must also plan for its role in incident response. Virtually every Federal department and agency possesses resources that a jurisdiction may need when responding to an incident. Some Federal departments and agencies have primary responsibility for specific aspects of incident response, such as HAZMAT remediation. Others may have supporting roles in providing different types of resources, such as communications personnel and equipment. Regardless of their roles, all Federal departments and agencies must develop policies, plans, and procedures governing how they will effectively locate resources and provide them as part of a coordinated Federal response. The planning considerations described for response can also guide prevention and protection planning.

Planning Considerations

The NRF identifies government responsibility to develop detailed all-hazards/all-threats EOPs. It states these plans should:

- Define leadership roles and responsibilities and clearly articulate the decisions that need to be made, who will make them, and when
- Include an all-hazards basic plan, as well as hazard- and threat-specific annexes
- Integrate and incorporate key private sector and nongovernmental elements

- Include strategies for both no-notice and forewarned evacuations, with particular consideration given to assisting children, as well as individuals with disabilities, access and functional needs, or limited English proficiency.

State, Territorial, and Tribal Government Planning

State, territorial, and tribal governments have significant resources of their own, including emergency management and homeland security agencies, police departments, health agencies, transportation agencies, incident management teams, specialized teams, and the National Guard. The NRF states that the role of a state government during emergency response is to supplement local efforts before, during, and after a disaster or emergency situation. If a state anticipates that its needs may exceed its resources, the Governor can request assistance from other states through MAAs (e.g., Emergency Management Assistance Compact) and/or from the Federal Government.

Local Government Planning

The NRF emphasizes the concept of resilient communities. Resiliency begins with prepared individuals and depends on the leadership and engagement of local government, civic leaders, and private sector businesses and organizations. Local police, fire, emergency medical services (EMS), emergency management, public health and medical providers, public works, and other community agencies are often the first to be notified about a threat or hazard or to respond to an incident. These entities should work with individuals, families, and service providers for people with disabilities and others with access and functional needs to enhance their awareness of risk levels and specific threats, develop household emergency plans that include household pets and service animals, and prepare emergency supply kits.

Concept of Operations

The NRF guides governments at all levels, the private sector, nongovernmental organizations, and individual citizens toward a shared and effective response. Upon receiving the warning that a disaster is likely to occur or has occurred, elements of the NRF may be implemented in a scalable and flexible way to improve response.

Functional Organization

The NRF uses 15 Emergency Support Functions (ESF) to group and describe the kinds of resources and types of Federal assistance available to augment state and local response efforts:

Resilient Communities and Planning

Resilience, broadly defined, is the ability to resist, absorb, recover from, or adapt to an adverse occurrence. Engaging the community in the planning process will improve community resiliency by increasing the understanding of threats and hazards, participating in the planning process, and communicating the expected actions for the community to undertake during an emergency.

At the local and state level, this entails knowing the community and its demographics, as well as involving both the formal and informal community leadership structure in the planning process. This is true for all levels of government as each level works to engage the issues surrounding individuals with access and functional needs, individuals with limited English proficiency, children, and those with household pets and service animals.

Engaging the private sector is a critical element of the process. Much of the critical infrastructure necessary to our communities is owned and operated by the private sector. Connecting the government and the private sector is, therefore, a necessary part of the planning process.

- ESF #1 Transportation
- ESF #2 Communications
- ESF #3 Public Works and Engineering
- ESF #4 Firefighting
- ESF #5 Emergency Management
- ESF #6 Mass Care, Emergency Assistance, Housing, and Human Services
- ESF #7 Logistics Management and Resource Support
- ESF #8 Public Health and Medical Services
- ESF #9 Search and Rescue
- ESF #10 Oil and Hazardous Materials Response
- ESF #11 Agriculture and Natural Resources
- ESF #12 Energy
- ESF #13 Public Safety and Security
- ESF #14 Long-Term Community Recovery
- ESF #15 External Affairs.

Each ESF has a Federal department or agency identified as its coordinator. During response and recovery operations, the coordinating agency forms and activates a team that is responsible for working with the appropriate state and local officials to identify unmet resource needs. The team also coordinates the flow of resources and assistance provided by the Federal Government to meet these needs.

Federal Emergency Plans at the National and Regional Levels

The NRF serves as the foundation for the development of national and regional response plans that implement Federal response activities. At the national level, the Federal planning structure supports the NRF.

FEMA Regions are developing plans to address potential activities and actions taken by regional offices of Federal departments and agencies in support of state and local operations. They also provide the necessary link between the state EOP and the NRF. Within an identified scope, each Regional plan addresses one or more of the following:

- Specifies the responsibilities assigned to each of the tasked Federal departments and agencies for mobilizing and deploying resources to assist the state(s) in response/recovery efforts
- Describes the relationship between the responding Federal agencies/departments and their state counterparts
- Provides information to the states on the various response mechanisms, capabilities, and resources available to them through the Federal Government
- Describes notification procedures and protocols for communicating with state officials; procedures and systems for communication; frequency of contact; and message content
- Provides for Incident Management Assistance Team personnel to assist in conducting a rapid situation assessment immediately prior to or after a disaster has occurred
- Describes coordination responsibilities of the regional liaison officer(s) and the provisions established for deployment to the state EOC
- Provides for deployment of Incident Management Assistance Team members to the state EOC/Joint Field Office (JFO) and/or staging locations or directly into the area impacted by the disaster
- Provides for obtaining work space in the state EOC and other locations for the initial response cadre; arrangements to obtain work space for the JFO and other follow-on response teams; and a variety of other activities that require extensive coordination.

State, Territorial, and Tribal Emergency Operations Plans

The state/territorial/tribal EOP addresses several operational response functions and describes how to fulfill its mission of providing resources to satisfy unmet needs. These functions focus on actions, such as direction and control, warning, public notification, and evacuation, that the state/territorial/tribal government must take during the initial phase of response operations and that fall outside of the Federal response mission. Thus, they are not appropriate for inclusion in Federal response plans.

Because state/territorial/tribal governments must channel Federal assistance provided under the NRF, some choose to mirror the NRF functions. There is no need to replicate the Federal ESFs exactly. Some have successfully used a hybrid approach, either by giving the counterparts of Federal ESFs extra responsibilities appropriate to the state/territorial/tribal level or by creating functions in addition to those used by the Federal Government to address state/territorial/tribal responsibilities and concerns. The important thing is for the choice of functions to fit the state/territorial/tribal government's own concept of operations, policies, governmental structure, and resource base. That fit is critical, because the EOP describes what the state/territorial/tribal government will do when conducting emergency operations. The EOP:

- Identifies the departments and agencies designated to perform response and recovery activities and specifies tasks they must accomplish
- Outlines the assistance that is available to local jurisdictions during disasters that generate emergency response and recovery needs beyond what the local jurisdiction can satisfy
- Specifies the direction, control, and communications procedures and systems that will be relied upon to alert, notify, recall, and dispatch emergency response personnel; warn local jurisdictions; protect residents and property; and request aid/support from other jurisdictions and/or the Federal Government (including the role of the Governor's Authorized Representative)
- Describes ways to obtain initial situation assessment information from the local jurisdiction(s) directly affected by the disaster or emergency
- Describes how work space and communication support will be provided to the Regional Liaison Officers and other Federal teams deployed to the EOC, staging areas, or the area directly impacted by the disaster
- Designates a State Coordinating Officer to work directly with the Federal Coordinating Officer
- Assists the Federal Coordinating Officer in identifying candidate locations for establishing the JFO
- Provides coordinating instructions and provisions for implementing interstate compacts, as applicable
- Describes the logistical support for planned operations.

Local Emergency Operations Plans

Local EOPs should largely be consistent with state/territorial/tribal plans. The EOP addresses several operational response functions and describes how to fulfill its mission of providing resources to satisfy unmet needs. These functions focus on actions, such as direction and control, warning, public notification, and evacuation, that the local government must take during the initial phase of response operations and that fall outside of the state/territorial/tribal response mission. Thus, they are not appropriate for inclusion in those response plans. Local jurisdictions should work with their state, territorial, or tribal leadership to clearly delineate roles, responsibilities, and structures as required.

At a minimum the EOP describes what the local government will do when conducting emergency operations. The EOP:

- Identifies the departments and agencies designated to perform response and recovery activities and specifies tasks they must accomplish
- Outlines the integration of assistance that is available to local jurisdictions during disaster situations that generate emergency response and recovery needs beyond what the local jurisdiction can satisfy
- Specifies the direction, control, and communications procedures and systems that will be relied upon to alert, notify, recall, and dispatch emergency response personnel; warn the public; protect residents and property; and request aid/support from other jurisdictions and/or the Federal Government (including the role of the Governor's Authorized Representative)
- Provides coordinating instructions and provisions for implementing MAAs, as applicable
- Describes the logistical support for planned operations.

Linking Federal, State, and Local Emergency Plans

A close analysis of the planning relationships described in the previous section shows that the FEMA Region is the interface between the Federal and jurisdictional planning processes. The FEMA Region is the place where jurisdictional needs during an incident are converted into Federal support missions until a JFO is established. It is through the FEMA Region that planning for Federal operations is integrated and synchronized with planning for operations shaped by the hazards and risks faced by state, territorial, tribal, and local communities.

Course of action development determines jurisdictional needs during the planning process. Similarly, FEMA Regions determine capability gaps, resource shortfalls, and state expectations for Federal assistance through the process of gap analysis. FEMA Regions conduct these analyses by using a joint planning team with multiple state representatives, individually with each state, or through some other method.

To ensure a common operational concept, each Region's plan may include an annex that summarizes the CONOPS, priorities, concerns, and needs of each state within its jurisdiction.

In short, the relationships established between the FEMA Region and all Federal, state, and local partners ensure effective collaboration before, during, and after emergency operations. The integrated plans resulting from these relationships clarify the roles and responsibilities at all levels and result in more effective operations.

3. Format and Function: Identifying the Right Plan for the Job

Overview

The first two chapters provided a foundation for planners by illustrating not only the basics of planning, but also the environment in which planning occurs. Chapter 3 shifts from theory to application by examining the different types of plans and how they are used to meet the requirements of a jurisdiction.

The Emergency Operations Plan

Traditionally, the focus of a jurisdiction's operational planning effort has been the EOP. EOPs are plans that define the scope of preparedness and emergency management activities necessary for that jurisdiction. The EOP structures and concepts that follow provide an example for jurisdictions to use when developing any plan. The EOP format works well for both conventional and complex emergency operations.

Emergency management involves several kinds of plans, just as it involves several kinds of actions. While many jurisdictions consider the EOP the centerpiece of their planning effort, it is not the only plan that addresses emergency management functions. Other types of plans that support and supplement the EOP are discussed later in this chapter.

A jurisdiction's EOP is a document that:

- Assigns responsibility to organizations and individuals for carrying out specific actions that exceed routine responsibility at projected times and places during an emergency
- Sets forth lines of authority and organizational relationships and shows how all actions will be coordinated
- Describes how people (including unaccompanied minors, individuals with disabilities, others with access and functional needs, and individuals with limited English proficiency) and property are protected
- Identifies personnel, equipment, facilities, supplies, and other resources available within the jurisdiction or by agreement with other jurisdictions
- Reconciles requirements with other jurisdictions.

An EOP is flexible enough for use in all emergencies. A complete EOP describes: the purpose of the plan; the situation; assumptions; CONOPS; organization and assignment of responsibilities; administration and logistics; plan development and maintenance; and authorities and references.

The EOP contains annexes appropriate to the jurisdiction's organization and operations. EOPs pre-designate a jurisdictional lead agency and/or functional area representatives to the incident command, unified command, or multiagency coordination entity whenever possible to facilitate responsive and collaborative incident management.

The EOP facilitates prevention, protection, response, and short-term recovery, which sets the stage for successful long-term recovery. Response actions and some post-disaster recovery issues, such as the rebuilding and placement of temporary housing facilities, are time-sensitive. Advance planning makes performing these tasks easier, especially in a changing environment. Jurisdictions, especially those with known severe hazards and vulnerabilities, should integrate complex housing and overall recovery planning with that of the EOP.

Typically, an EOP does not detail long-term recovery actions. However, the EOP should provide for a transition to a long-term recovery plan, if any exists, and for a stand-down of response forces. As mentioned previously, the EOP may cover some short-term recovery actions that are natural extensions of response. For example, meeting human needs requires maintaining logistical support for mass care actions initiated in the response phase. It could also involve the restoration of infrastructure "lifelines" and the removal of debris to facilitate the response. At the state's discretion, its disaster assistance plans for distribution of Federal and state relief funds might be included as an annex to the EOP. Disaster assistance plans indicate how to identify, contact, match to aid, certify, and provide support to eligible aid recipients.

State and Local Emergency Operations Plans

In the Nation's system of emergency management, the local government must act first to address the public's emergency needs. Depending on the nature and size of the emergency, Federal, state, territorial, tribal, and regional (e.g., the National Capital Region) assistance may be provided to the local jurisdiction. The focus of local and tribal EOPs is on the emergency measures that are essential for protecting the public. At the minimum, these measures include warning, emergency public information, evacuation, and shelter.

States, territories, and regional organizations play three roles: assisting local jurisdictions whose capabilities must be augmented or are overwhelmed by an emergency; responding first to certain emergencies; and working with the Federal Government when Federal assistance is necessary. The state EOP is the framework within which local EOPs are created and through which the Federal Government becomes involved. As such, the state EOP ensures that all levels of government are able to mobilize in a unified way to safeguard the well-being of their citizens. The state and regional organization EOPs should synchronize and integrate with local, tribal, and regional plans.

A planning team's main concern is to include all essential information and instructions in the EOP. FEMA does not mandate a particular format for EOPs. In the final analysis, an EOP's format is acceptable if users understand it, are comfortable with it, and can extract the information they need. In designing a format for an all-hazards EOP, the planning team should consider the following:

- ***Organization*.** Do the EOP section and subsection titles help users find what they need, or must users sift through information that is not relevant? Can single plan components be revised without forcing a substantial rewrite of the entire EOP?
- ***Progression.*** In any one section of the EOP, does each element seem to follow from the previous one, or are some items strikingly out of place? Can the reader grasp the rationale for the sequence and scan for the information he or she needs?

- ***Consistency.*** Does each section of the EOP use the same logical progression of elements, or must the reader reorient himself or herself in each section?
- ***Adaptability.*** Does the EOP's organization make its information easy to use during unanticipated situations?
- ***Compatibility.*** Does the EOP format promote or hinder coordination with other jurisdictions, including the state and/or Federal Government? Can reformatting the EOP or making a chart of the coordinating relationships (i.e., a "crosswalk") solve problems in this area?
- ***Inclusivity.*** Does the EOP appropriately address the needs of those with disabilities or other access and functional needs, children, individuals with limited English proficiency, and household pets and service animals?

Structuring an Emergency Operations Plan

While the causes of emergencies vary greatly, their potential effects do not. Jurisdictions can plan for effects common to several hazards rather than develop separate plans for each hazard. For example, earthquakes, floods, and hurricanes can all force people from their homes. The jurisdiction can develop a plan organized around the task of finding shelter and food for individuals who have been displaced. If desired, the EOP planners can make minor adjustments to reflect differences in the speed of onset, duration, and intensity of the hazards.

This section outlines a variety of formats that a jurisdiction could use when developing an EOP, including a functional format, an ESF format, and an agency-/department-focused format. These format options come from EOPs used by jurisdictions across the Nation. They are suggestions for new planners on where to begin when developing an EOP. Seasoned planners can use these formats to validate the effectiveness of their EOP's organization.

The planning team must try to identify all critical common tasks or functions that participating organizations must perform, and assign responsibility for accomplishing each task or function. The planning team must work with the heads of tasked organizations to ensure that they prepare SOPs/SOGs detailing how they will carry out critical tasks associated with the jurisdiction's strategy. Because the jurisdiction's goal is a coordinated and integrated response, all EOP styles should flow from a basic plan that outlines the jurisdiction's overall emergency organization and its policies.

As the planning team begins to develop a new EOP, members must discuss which format is the most effective for and applicable to their jurisdiction. The jurisdiction's style of government or the results of a risk assessment may help the team decide which format to use. For example, in a sprawling metropolitan county that contains several municipalities and has a complex government structure, county emergency operations may assume more of a coordination and support role. Thus, an ESF approach may be optimal for that county's EOP. In contrast, a small rural community with a limited government structure and staff that performs multiple duties may benefit from a function-based EOP. In short, "form follows function" in the sense that operational needs should help determine the EOP format a jurisdiction uses. Generally, the functional or agency/department formats are used by local jurisdictions, while the ESF format tends to be used by larger jurisdictions and other levels of government.

None of these formats are mandatory to achieve NIMS compliance. The planning team may modify any of these formats to make the EOP fit the jurisdiction's emergency management strategy, policy, resources, and capabilities. Note, however, that some states prescribe an EOP format for their local governments.

Traditional Functional Format

The traditional functional structure is probably the most commonly used EOP format. This is the format that many jurisdictions have used to develop EOPs since the 1990s, following FEMA's Civil Preparedness Guide 1-8 and State and Local Guide 101, which have been rescinded and replaced by this Guide. The traditional functional format has three major sections: the basic plan, functional annexes, and hazard-specific annexes (see Figure 3.1).[6]

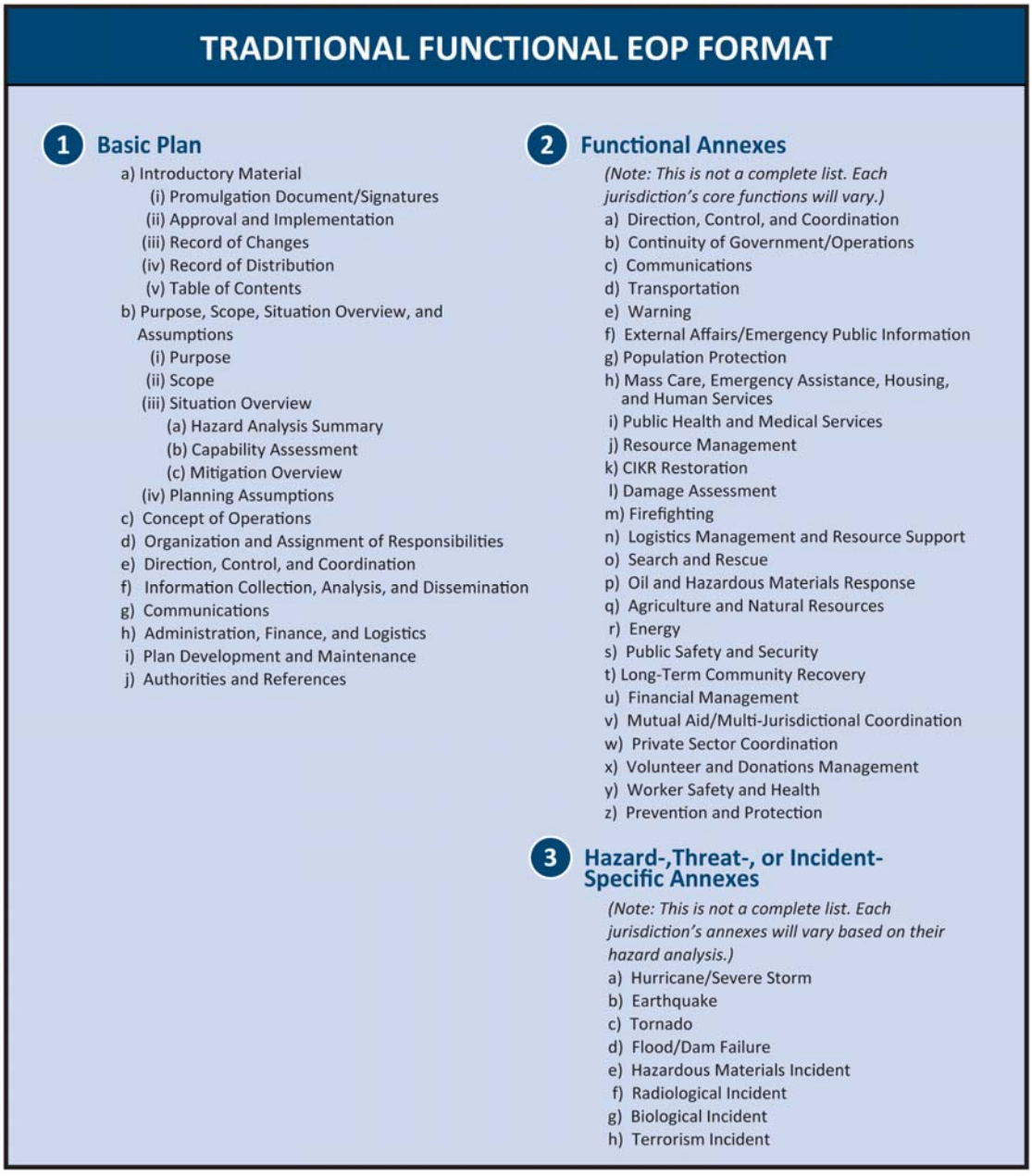


Figure 3.1: Traditional Functional EOP Format

[6] The term *annex* is used throughout this CPG to refer to functional, support, hazard/incident-specific, or other supplements to the basic plan, consistent with the NRF. Some jurisdictions' plans may use the term *appendix* in the same fashion (e.g., hazard-specific appendix).

The basic plan provides an overview of the jurisdiction's preparedness and response strategies. It describes expected hazards, outlines agency roles and responsibilities, and explains how the jurisdiction keeps the plan current.

The functional annexes are individual chapters that focus on missions (e.g., communications, damage assessment). These annexes describe the actions, roles, and responsibilities of participating organizations. Functional annexes discuss how the jurisdiction manages the function before, during, and after the emergency, and they identify the agencies that implement that function. However, each functional annex addresses only general strategies used for any emergency.

The hazard-, threat-, or incident-specific annexes describe the policies, situation, CONOPS, and responsibilities for particular hazards, threats, or incidents. They explain the procedures that are unique to that annex for a hazard type. For example, the direction and control annex may discuss how a local law enforcement's command post would coordinate its functions; this information would only be addressed in a hazard-, threat-, or incident-specific annex if it would be different for particular hazards, threats, or incidents. Strategies already outlined in a functional annex should not be repeated in a hazard-specific annex.

The traditional format also uses a specific outline to define the elements of each annex. When the format is followed, EOP users can find information in the plan more easily because the same type of information is in the same location. The traditional EOP format is flexible enough to accommodate all jurisdictional strategies. The planning team can add annexes to include a new function or a newly identified hazard or threat. Similarly, the team can separate an operational issue (e.g., mass care) into two separate annexes (e.g., sheltering and feeding, distribution of emergency supplies).

Emergency Support Function Format

The ESF format is the plan structure used in the NRF. Many state-level EOPs use this format. It begins with a basic plan, includes unique annexes that support the whole plan, addresses individual ESF annexes, and then attaches separate support or incident annexes (see Figure 3.2).

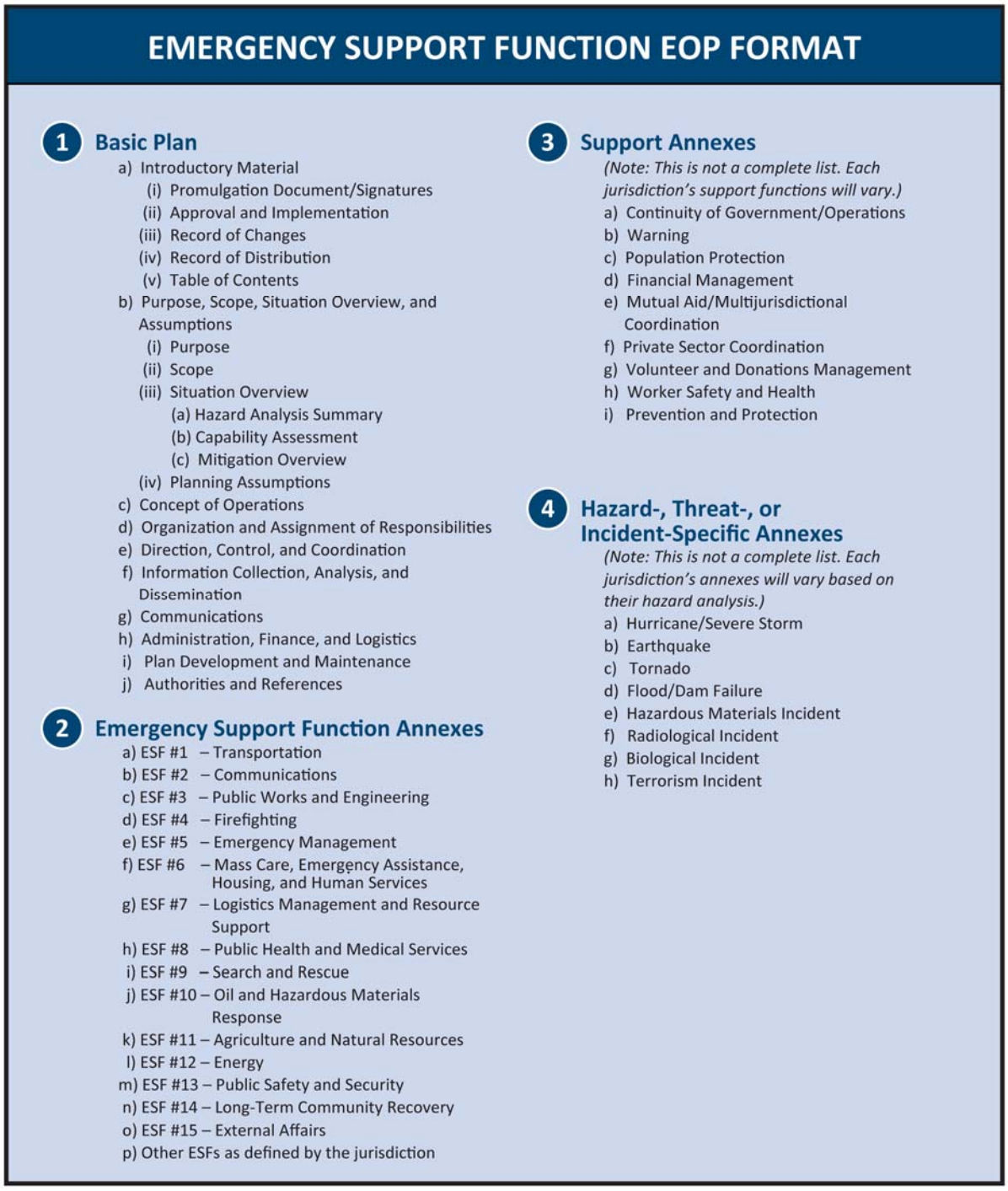


Figure 3.2: Emergency Support Function EOP Format

The basic plan provides an overview of the jurisdiction's emergency management system. It briefly explains the hazards faced, capabilities, requirements, and the jurisdiction's emergency management structure. It also reviews expected mission execution for each emergency phase and identifies the agencies that have the lead for a given ESF. The basic plan then outlines the ESFs activated during an emergency.

The ESF annexes identify the ESF coordinator and the primary and support agencies for each function. ESFs with multiple primary agencies should designate an ESF coordinator to coordinate pre-incident planning. An ESF annex describes expected mission execution for each emergency phase and identifies tasks assigned to members of the ESF, including nongovernmental and private sector partners.

The support annexes describe the framework through which a jurisdiction's departments and agencies, the private sector, not-for-profit and voluntary organizations, and other nongovernmental organizations coordinate and execute the common emergency management strategies. The actions described in the support annexes apply to nearly every type of emergency. Each support annex identifies a coordinating agency, as well as assisting and cooperating agencies. In some instances, two departments or agencies share coordinating agency responsibilities.

The hazard-, threat-, or incident-specific annexes describe the policies, situation, CONOPS, and responsibilities for particular hazards, threats, or incidents. Each annex should consider the following components:

- ***Policies.*** The policy section identifies the authorities unique to the incident type, the special actions or declarations that may result, and any special policies that may apply.
- ***Situation.*** The situation section describes the incident or hazard characteristics and the planning assumptions. It also outlines the management approach for those instances when key assumptions do not hold (e.g., how authorities will operate if they lose communication with senior decision makers).
- ***Concept of Operations.*** This section describes the flow of the emergency management strategy for accomplishing a mission or set of objectives in order to reach a desired end-state. It identifies special coordination structures, specialized response teams or resources needed, and other considerations unique to the type of incident or hazard.
- ***Responsibilities.*** Each incident annex identifies the coordinating and cooperating agencies involved in an incident-, hazard-, or threat-specific response.

Agency-/Department-Focused Format

The agency-/department-focused format addresses each department's or agency's tasks in a separate section. In addition to the basic plan, this format includes lead and support agency sections and hazard-specific procedures for the individual agencies (see Figure 3.3). Very small communities may find this format more appropriate for their situation than the other formats previously presented.



Figure 3.3: Agency-/Department-Focused EOP Format

Like the other EOP formats, the basic plan provides an overview of a jurisdiction's ability to prevent, protect against, respond to, and recover from emergencies. It summarizes the basic tasks taken to prepare for a disaster and defines how the plan is developed and maintained.

Separate lead and support agency sections discuss the emergency functions completed by individual departments, agencies, and nongovernmental partners. Each individual agency section still needs to refer to other agency sections to ensure coordination with their respective emergency management strategies. The hazard-specific procedures section addresses the unique preparedness, response, and recovery strategies relevant to each department or agency for specific disaster types. The hazard-specific procedures can immediately follow each agency section or be attached as a separate chapter to the plan.

This format allows EOP users to review only those procedures specific to their agency without having to review other agencies' response tasks. The individual sections still reference the unique relationships that need to exist with other agencies during a disaster; however, they do not contain details on the other departments' or agencies' strategies. If needed, the plan users can go to the other departments' or agencies' sections and review their procedures to understand the bigger picture. The level of detail provided in each section varies according to the needs of the specific department or agency. Agencies or departments with detailed SOPs/SOGs may not need much information in their portion of the plan, while others may need to provide more details in the EOP.

Using Planning Templates

Managers and planners, particularly at the local level, recognize that the planning process demands a significant commitment of time, effort, and resources. To ease this burden, many planners and jurisdictions use templates to complete their plans. Some states provide templates to their local jurisdictions. Other templates are available through hazard-specific preparedness programs or commercially from private sector vendors.

Planners must ensure that using those templates does not undermine the planning process. For example, "fill-in-the-blank" templates can defeat the socialization, mutual learning, and role acceptance that are so important to achieving effective planning and a successful response. The best templates are those that offer a plan format and describe the content that each section might contain, allowing for tailoring to the jurisdiction's geographic, political, and social environment. With this in mind, planners should consider CPG 101 a template because it provides plan formats and content guidance.

When using a planning template, planners should consider whether:

- The resulting plan represents the jurisdiction's unique hazard and threat situation by ensuring that the underlying facts and assumptions match those applicable to the jurisdiction
- The hazard and risk assessments match the jurisdiction's demographics, infrastructure inventory, probability of hazard occurrence, etc.
- The template broadly identifies the resources needed to address the problems generated by an emergency or disaster
- Using the template stifles creativity and flexibility, thereby constraining the development of strategies and tactics needed to solve disaster problems
- Using the templates encourages planning "in a vacuum," by allowing a single individual to "write" the plan.

Regardless of the template used, planners will likely discover that the template will need to be adjusted to meet their jurisdiction's needs. This observation does not mean that planners should not use templates or plans from other jurisdictions to help with writing style and structure. Instead, what it does mean is that planners must evaluate the usefulness of any planning tool (e.g., template, software) used as part of the planning process.

Additional Types of Plans

Emergency operations involve several kinds of plans, just as they involve several kinds of actions. While the EOP is often the centerpiece of emergency planning efforts, it is not the only plan that addresses emergency management or homeland security missions. There are other types of plans that support and supplement the EOP and its annexes.

Joint Operational Plans or Regional Coordination Plans typically involve multiple levels of government to address a specific incident or a special event. These plans should be developed in a manner consistent with this Guide and included as an annex or supplemental plan to the EOP, depending on the subject of the plan. Standing plans should be an annex to the related EOPs, while special events plans should be stand-alone supplements based on the information contained within the related EOPs.

Administrative plans describe basic policies and procedures to support a governmental endeavor. Typically, they deal less with external work products than with internal processes. Examples include

plans for financial management, personnel management, records review, and labor relations activities. Such plans are not the direct concern of an EOP. However, planners should reference the administrative plan in the EOP if its provisions apply during an emergency. Planners should make similar references in the EOP for exceptions to normal administrative plans permitted during an emergency.

Preparedness plans address the process for developing and maintaining capabilities for the whole community both pre- and post-incident. Preparedness plans should address capabilities needed for prevention, protection, response, recovery, and mitigation activities. These plans include the schedule for identifying and meeting training needs based on the expectations created by the EOP; the process and schedule for developing, conducting, and evaluating exercises and correcting identified deficiencies; and plans for procuring, retrofitting, or building facilities and equipment that could withstand the effects of the hazards facing the jurisdiction.

Continuity plans outline essential functions that must be performed during an incident that disrupts normal operations and the methods by which these functions will be performed. They also describe the process for timely resumption of normal operations once the emergency has ended. COOP plans address the continued performance of core capabilities and critical operations during any potential incident. COG plans address the preservation and/or reconstitution of government to ensure that constitutional, legislative, and/or administrative responsibilities are maintained.

Recovery plans developed prior to a disaster enable jurisdictions to effectively direct recovery activities and expedite a unified recovery effort. Pre-incident planning performed in conjunction with community development planning helps to establish recovery priorities, incorporate mitigation strategies in the wake of an incident, and identify options and changes that should be considered or implemented after an incident. Post-incident community recovery planning serves to integrate the range of complex decisions in the context of the incident and works as the foundation for allocating resources.

Mitigation plans outline a jurisdiction's strategy for mitigating the hazards it faces. The Disaster Mitigation Act of 2000 requires jurisdictions seeking certain disaster assistance funding to have approved mitigation plans. Mitigation planning is often a long-term effort and may be part of or tied to the jurisdiction's strategic development plan or similar documents. Mitigation planning committees may differ from operational planning teams in that they include zoning boards, floodplain managers, and individuals with long-term cultural or economic interests. Existing plans for mitigating hazards are relevant to an EOP since both originate from a hazard-based analysis and share similar component requirements.

Prevention and protection plans typically tend to be more facility focused and procedural or tactical in their content. Common jurisdictional prevention and protection plans include fusion center operations plans, sector-specific or CIKR security plans, and incident-specific contingency action plans.

Procedural Documents

Procedural documents describe how to accomplish specific activities needed to finish a task or achieve a goal or objective. Put simply, plans describe the "what" and procedures describe the "how." Planners should prepare procedural documents to keep the plan free of unnecessary detail. The basic criterion is: What does the audience of this part of the plan need to know or have set out as a matter of public record? Information and how-to instructions used by an individual or small group should appear in procedural documents. The plan should reference procedural documents as appropriate.

With regard to many responsibilities in the EOP, it is enough to assign the responsibility to an individual (by position or authority) or organization and specify the assignee's accountability: to whom does the

person report or with whom does the person coordinate? For example, a plan assigning responsibility for extinguishing fires to the fire department would not detail procedures used at the scene or specify what fire equipment is most appropriate. In this situation, the EOP would defer to the fire department's SOPs/SOGs. However, the plan would describe the relationship between the Incident Commander and the central organization directing the jurisdictional response to the emergency, of which the fire in question may be only a part.

Overviews are brief concept summaries of an incident-related function, team, or capability. There are two types of overview documents. One type explains general protocols and procedures. This document serves as the bridge between all functional or hazard-specific planning annexes and procedural documentation. It could contain an EOC layout, describe activation levels, and identify which functions or sections are responsible for planning, operational, and support activities. An easy way to develop an overview document is to review the assignments and responsibilities outlined in the EOP and ensure that the overview document references the procedures developed to fulfill them. The second type of overview document is specific to a functional team or area. It describes the general responsibilities and tasks of a functional team. This overview document provides enough information to supporting personnel to aid in activities related to the function, team, or capability summarized by the document. It identifies qualifications to support the team, provides a summary of operational procedures, and defines possible missions in greater detail than is described in plan annexes. As an example, the overview document addressing transportation would describe the purpose of this function, composition of support personnel, requirements for the team or branch, and missions that might be required. It might also identify the hazards or conditions that determine when missions are assigned. A successful overview document helps orient a newly arriving member of the department or agency brought in to support a particular function, mission, or section.

Standard Operating Procedures (SOP)/Standard Operating Guidelines (SOG) are complete reference documents that provide the purpose, authorities, duration, and details of the preferred method for performing a single function or a number of interrelated functions in a uniform manner. SOPs/SOGs often describe processes that evolved institutionally over the years or document common practices so that institutional experience is not lost to the organization as a result of staff turnover. SOPs/SOGs are sometimes task-specific (e.g., how to activate a siren system or issue an Emergency Alert System [EAS] message). SOPs/SOGs should grow naturally out of the responsibilities identified and described in the EOP. Staff members who typically engage in emergency activities should develop the procedures found in an SOP/SOG.

SOPs/SOGs may include checklists, call-down rosters, resource listings, maps, and charts. SOPs/SOGs may also describe how to notify staff; how to obtain and use equipment, supplies, and vehicles; how to obtain mutual aid; how to report information to organizational work centers and the EOC; and how to communicate with staff members who are operating from more than one location.

The planning team works with the senior representatives of tasked organizations to ensure that the SOPs/SOGs needed to implement the EOP do, in fact, exist and do not conflict with the EOP or with one another.

Field Operations Guides (FOG) or handbooks are durable pocket or desk guides containing information required to perform specific assignments or functions. FOGs provide those individuals assigned to specific teams, branches, or functions with information about the procedures they are likely to perform or portions of an SOP/SOG appropriate for the missions they are likely to complete. The FOG is a short-form version of the SOP/SOG and serves as a resource document. When combined with the overview document, it gives an accurate and complete picture of the positions these individuals fill. In addition to relevant procedures, the FOG or handbook may include administrative procedures that staff must follow.

Job aids are checklists or other materials that help users perform a task. Examples of job aids include telephone rosters, report templates, software or machine operating instructions, and task lists. Job aids are often included to help relatively inexperienced EOC personnel complete their assigned tasks or as a reference for experienced personnel. Job aids may also reduce complexity or the opportunity for error in executing a task (e.g., providing a lookup chart of temperature conversions rather than providing a formula for doing the conversion). These job aids do not eliminate the need for training, but may serve to address gaps in training during an incident.

Emergency Operations Plan Content

The Basic Plan

The basic plan provides an overview of the jurisdiction's approach to emergency operations. It identifies emergency response policies, describes the response organization, and assigns tasks. Although the basic plan guides the development of the more operationally-oriented annexes, its primary audience consists of the jurisdiction's senior official, his or her staff, agency heads, and the community (as appropriate). The elements listed in this section should meet the needs of this audience while providing a solid foundation for the development of supporting annexes.

Introductory Material

Certain items that enhance accountability and ease of use should preface an EOP. Typical introductory material includes the following components:

- ***Cover Page.*** The cover page has the title of the plan. It should include a date and identify the jurisdiction(s) covered by the plan.
- ***Promulgation Document.*** Promulgation is the process that officially announces/declares a plan (or law). The promulgation document gives the plan official status. It gives both the authority and the responsibility to organizations to perform their tasks. It should also mention the responsibilities of tasked organizations with regard to preparing and maintaining their own procedures/guidelines and commit those organizations to carrying out the training, exercises, and plan maintenance needed to support the plan. In addition, the promulgation document allows senior officials to affirm their support for emergency management.
- ***Approval and Implementation Page.*** The approval and implementation page introduces the plan, outlines its applicability, and indicates that it supersedes all previous plans. It should include a delegation of authority for specific modifications that can be made to the plan and by whom they can be made without the senior official's signature. It should also include a date and should be signed by the senior official(s) (e.g., governor, tribal leader[s], mayor, county judge, commissioner[s]).
- ***Record of Changes.*** Each update or change to the plan should be tracked. The record of changes, usually in table format, contains, at a minimum, a change number, the date of the change, the name of the person who made the change, and a summary of the change. Other relevant information could be considered.
- ***Record of Distribution.*** The record of distribution, usually in table format, indicates the title and the name of the person receiving the plan, the agency to which the recipient belongs, the date of delivery, and the number of copies delivered. Other relevant information could be considered. The record of distribution can be used to prove that tasked individuals and organizations have acknowledged their receipt, review, and/or acceptance of the plan. Copies of the plan can be made available to the public and media without SOPs/SOGs, call-down lists, or other sensitive information.

- ***Table of Contents.*** The table of contents should be a logically ordered and clearly identified layout of the major sections and subsections of the plan that will make finding information within the plan easier.

Purpose, Scope, Situation Overview, and Planning Assumptions

The purpose, scope, situation overview, and planning assumptions section includes the following components:

- ***Purpose.*** The purpose sets the foundation for the rest of the EOP. The basic plan's purpose is a general statement of what the EOP is meant to do. The statement should be supported by a brief synopsis of the basic plan and annexes.
- ***Scope.*** The EOP should also explicitly state the scope of emergency and disaster response and the entities (e.g., departments, agencies, private sector, citizens) and geographic areas to which the plan applies.
- ***Situation Overview.*** The situation section characterizes the "planning environment," making it clear why an EOP is necessary. The level of detail is a matter of judgment; some information may be limited to a few specific annexes and presented there. At a minimum, the situation section should summarize hazards faced by the jurisdiction and discuss how the jurisdiction expects to receive (or provide) assistance within its regional response structures. The situation section covers a general discussion of:
  - Relative probability and impact of the hazards
  - Geographic areas likely to be affected by particular hazards
  - Vulnerable critical facilities (e.g., nursing homes, schools, hospitals, infrastructure)
  - Population distribution and locations, including any concentrated populations of individuals with disabilities, others with access and functional needs, or individuals with limited English proficiency, as well as unaccompanied minors and children in daycare and school settings
  - Dependencies on other jurisdictions for critical resources
  - The process used by the jurisdiction to determine its capabilities and limits in order to prepare for and respond to the defined hazards
  - The actions taken in advance to minimize an incident's impacts, including short- and long-term strategies.
- ***Planning Assumptions.*** These identify what the planning team assumes to be facts for planning purposes in order to make it possible to execute the EOP. During operations, the assumptions indicate areas where adjustments to the plan have to be made as the facts of the incident become known. These also provide the opportunity to communicate the intent of senior officials regarding emergency operations priorities.

Concept of Operations (CONOPS)

The audience for the basic plan needs to be able to visualize the sequence and scope of the planned emergency response. The CONOPS section is a written or graphic statement that explains in broad terms the decision maker's or leader's intent with regard to an operation. The CONOPS should describe how the response organization accomplishes a mission or set of objectives in order to reach a desired end-state. Ideally, it offers clear methodology to realize the goals and objectives to execute the plan. This may include a brief discussion of the activation levels identified by the jurisdiction for its operations center. The CONOPS should briefly address direction and control, alert and warning, and continuity matters that may be dealt with more fully in annexes.

Organization and Assignment of Responsibilities

The basic plan establishes the operational organization that will be relied on to respond to an emergency situation. It includes a list of the kinds of tasks to be performed, by position and organization, without all of the procedural details included in functional annexes. When two or more organizations perform the same kind of task, one should be given primary responsibility, with the other(s) providing a supporting role. For the sake of clarity, a matrix of organizations and areas of responsibility (including functions) should be included to summarize the primary and supporting roles. Shared general responsibilities, such as developing SOPs/SOGs, should not be neglected, and the matrix might include organizations not under jurisdictional control, if they have defined responsibilities for responding to emergencies that might occur in the jurisdiction. Organization charts, especially those depicting how a jurisdiction is implementing the ICS or Multiagency Coordination System structure, are helpful. This section should also outline agency and departmental roles related to prevention and protection activities.

In addition, this section is where a jurisdiction discusses the option that it uses for organizing emergency management—ESF, agency and department, functional areas of ICS/NIMS, or a hybrid. The selected management structure determines what types of annexes are included in the EOP and should be carried through to any hazard annexes.

Direction, Control, and Coordination

This section describes the framework for all direction, control, and coordination activities. It identifies who has tactical and operational control of response assets. Additionally, Direction, Control, and Coordination explains how multijurisdictional coordination systems support the efforts of organizations to coordinate efforts across jurisdictions while allowing each jurisdiction to retain its own authorities. This section also provides information on how department and agency plans nest into the EOP (horizontal integration) and how higher-level plans are expected to layer on the EOP (vertical integration).

Information Collection, Analysis, and Dissemination

This section describes the critical or essential information common to all operations identified during the planning process. It identifies the type of information needed, the source of the information, who uses the information, how the information is shared, the format for providing the information, and any specific times the information is needed. State and local prevention and protection assets must develop the Information Collection, Analysis, and Dissemination section in close cooperation with each other. The contents of this section are best provided in a tabular format. This section may be expanded as an annex.

Communications

This section describes the communication protocols and coordination procedures used between response organizations during emergencies and disasters. It discusses the framework for delivering communications support and how the jurisdiction's communications integrate into the regional or national disaster communications network. It does not describe communications hardware or specific procedures found in departmental SOPs/SOGs. Planners should identify and summarize separate interoperable communications plans. This section may be expanded as an annex and is usually supplemented by communications SOPs/SOGs and field guides.

Administration, Finance, and Logistics

This section covers general support requirements and the availability of services and support for all types of emergencies, as well as general policies for managing resources. Planners should address the following in this section of the plan:

- References to intrastate and interstate MAAs, including the Emergency Management Assistance Compact

- Authorities for and policies on augmenting staff by reassigning public employees and soliciting volunteers, along with relevant liability provisions
- General policies on keeping financial records, reporting, tracking resource needs, tracking the source and use of resources, acquiring ownership of resources, and compensating the owners of private property used by the jurisdiction.

If this section is expanded, it should be broken into individual functional annexes—one for each element.

Plan Development and Maintenance

This section discusses the overall approach to planning and the assignment of plan development and maintenance responsibilities. This section should:

- Describe the planning process, participants in that process, and how development and revision of different "levels" of the EOP (basic plan, annexes, and SOPs/SOGs) are coordinated during the preparedness phase
- Assign responsibility for the overall planning and coordination to a specific position
- Provide for a regular cycle of training, evaluating, reviewing, and updating of the EOP.

Authorities and References

This section provides the legal basis for emergency operations and activities. This section of the plan includes:

- Lists of laws, statutes, ordinances, executive orders, regulations, and formal agreements relevant to emergencies (e.g., MAAs)
- Specification of the extent and limits of the emergency authorities granted to the senior official, including the conditions under which these authorities become effective and when they would be terminated
- Pre-delegation of emergency authorities (i.e., enabling measures sufficient to ensure that specific emergency-related authorities can be exercised by the elected or appointed leadership or their designated successors)
- Provisions for COOP and COG (e.g., the succession of decision-making authority and operational control) to ensure that critical emergency functions can be performed.

Supporting Annexes

What follows is a discussion of the purpose and potential content of supporting annexes to the basic plan. For consistency, the recommended structure for all annexes is the same as that of the basic plan.

Functional, Support, Emergency Phase, or Agency-Focused Annex Content

Functional, support, emergency phase, or agency-focused annexes add specific information and direction to the EOP. These annexes are variations of functional annexes tailored to the EOP format used by the jurisdiction. They focus on critical operational functions and who is responsible for carrying them out. These annexes clearly describe the policies, processes, roles, and responsibilities that agencies and departments carry out before, during, and after any emergency. While the basic plan provides broad, overarching information relevant to the EOP as a whole, these annexes focus on specific responsibilities, tasks, and operational actions that pertain to the performance of a particular emergency operations function. These annexes also establish preparedness targets (e.g., training, exercises, equipment checks

and maintenance) that facilitate achieving function-related goals and objectives during emergencies and disasters.

An early and very important planning task is to identify the functions that are critical to successful emergency response. These core functions become the subjects of the separate functional, support, emergency phase, or agency-focused annexes. The constitutional and organizational structures of a jurisdiction's government, the capabilities of its emergency services agencies, and established policy and intended outcome of emergency operations influence the choice of core functions. While no single list of functions applies to all jurisdictions, the following list of core functions warrants special attention because they may require specific actions during emergency response operations:

- Direction, control, and coordination
- Information collection, analysis, and dissemination
- Communications
- Population warning
- Emergency public information
- Public protection
- Mass care and emergency assistance
- Health and medical services
- Resource management.

Planners should ensure that specific concerns of population segments, such as children and individuals with access and functional needs, are addressed in specific functional, support, emergency phase, or agency-focused annexes. For example:

- Incorporating specific sheltering considerations for individuals with access and functional needs
- Incorporating means and methods by which transportation requests from schools are received and processed
- Incorporating mechanisms for disseminating accessible emergency public information using multiple methods to reach individuals with sensory and cognitive disabilities, as well as individuals with limited English proficiency

This list of core functions is not comprehensive. Each jurisdiction must assess its own needs, and additional or different annexes from those identified in Appendix C should be prepared at the planning team's discretion. States should encourage their jurisdictions to use a consistent set of core emergency functions to facilitate coordination and interoperability.

Some jurisdictions may want to modify their functional annex structure to use the 15 ESFs identified in the NRF. Some communities that have adopted the ESF approach have also added additional ESFs to meet local needs. The ESF structure facilitates the orderly flow of local requests for governmental support to the state and Federal levels and the provision of resources back down to local government during an emergency. State and local jurisdictions that choose not to adopt the ESF structure should cross-reference their functional annexes with the ESFs.

Table 3.1 shows some *possible* relationships between the traditional emergency management core functions, the department/agency, and ESF structures.

Table 3.1: Comparison of Potential Functional Annex Structures

Emergency Management Functions	Departments and Agencies	ESFs
Direction, Control, Coordination	All Departments and Agencies	All ESFs
Information Collection, Analysis, and Dissemination	All Departments and Agencies	All ESFs
Communications	All Departments and Agencies	ESF #2 – Communications
Population Warning	Emergency Management, Fire, Law Enforcement, Public Safety, Public Works, Schools	ESF #2 – Communications ESF #3 – Public Works and Engineering ESF #4 – Firefighting ESF #5 – Emergency Management ESF #13 – Public Safety and Security ESF #15 – External Affairs
Emergency Public Information	All Departments and Agencies	All ESFs
Public Protection	Agriculture, Emergency Management, Environment, Fire, Law Enforcement, Public Safety, Public Works, Roads, Schools, Transportation	ESF #1 – Transportation ESF #2 – Communications ESF #4 – Firefighting ESF #5 – Emergency Management ESF #9 – Search and Rescue ESF #10 – Oil and Hazardous Materials Response ESF #11 – Agriculture and Natural Resources ESF #13 – Public Safety and Security
Mass Care/Emergency Assistance	Aging, Agriculture, Animal Control, Community/Faith-Based Organizations, Corrections, Disabilities Groups, Emergency Management, Family Services, Housing, Labor, Independent Living Centers, Schools, Social Services, State Animal Rescue Teams, Veterinarians, Voluntary Organizations, Volunteers	ESF #1 – Transportation ESF #2 – Communications ESF #5 – Emergency Management ESF #6 – Mass Care, Emergency Assistance, Housing, and Human Services ESF #11 – Agriculture and Natural Resources ESF #13 – Public Safety and Security
Health and Medical Services	Emergency Management, EMS, Health, Hospitals, Nursing Homes, Assisted Living, Volunteers	ESF #1 – Transportation ESF #2 – Communications ESF #4 – Firefighting ESF #5 – Emergency Management ESF #8 – Public Health and Medical Services

Emergency Management Functions	Departments and Agencies	ESFs
Resource Management	Agriculture, Budget and Management, Economic Development, Emergency Management, Energy, Human Resources, Labor, Public Services, Purchasing	ESF #1 – Transportation ESF #5 – Emergency Management ESF #7 – Logistics Management and Resource Support ESF #11 – Agriculture and Natural Resources ESF #12 – Energy ESF #14 – Long-Term Community Recovery

Hazard-, Threat-, or Incident-Specific Annexes

The contents of hazard-, threat-, or incident-specific annexes focus on the special planning needs generated by the subject hazard. These annexes contain unique and regulatory response details that apply to a single hazard. Depending upon the EOP's structure, hazard-specific information may be included in functional annexes rather than stand-alone hazard-specific annexes.

Hazard- or incident-specific annexes usually identify hazard-specific risk areas and evacuation routes, specify provisions and protocols for warning the public and disseminating emergency public information, and specify the types of protective equipment and detection devices for responders. The annexes have tabs that serve as work aids for items including maps, charts, tables, checklists, resource inventories, and summaries of critical information. As indicated previously, hazard-specific annexes follow the basic plan's content organization. Hazard-specific operations information is typically provided in the CONOPS section, and includes:

- Assessment and control of the hazard
- Identification of unique prevention and CIKR protection activities to be undertaken to address the hazard or threat, as appropriate
- Selection of protective actions
- Conduct of public warning
- Implementation of protective actions
- Implementation of short-term stabilization actions
- Implementation of recovery actions.

Annex Implementing Instructions

Each annex, as well as the basic plan, may use implementing instructions in the form of SOPs/SOGs, maps, charts, tables, forms, and checklists and may be included as attachments or references. The EOP planning team may use supporting documents, as needed, to clarify the contents of the plan or annex. For example, the evacuation annex may be made clearer by attaching maps marked with evacuation routes to it. Because these routes may change depending on the location of the hazard, hazard-specific maps may also be included in the evacuation annex. Similarly, the locations of shelters may be marked on maps supporting the mass care annex.

Special Preparedness Programs

Some jurisdictions participate in special preparedness programs that publish their own planning guidance. Two examples are the Chemical Stockpile Emergency Preparedness Program and the Radiological Emergency Preparedness Program. When participating jurisdictions are developing an EOP, they must ensure that they meet the special planning requirements of these programs. Jurisdictions must decide whether this compliance is best accomplished by incorporating the requirements across functional annexes or by developing a hazard-specific annex for the program.

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4. The Planning Process

Overview

This chapter merges information from the first three chapters and describes an approach for operational planning that is consistent with processes already familiar to most planners. When the planning process is used consistently during the preparedness phase, its use during operations becomes second nature. The goal is to make the planning process routine across all phases of emergency management and for all homeland security mission areas.

The process described in this chapter blends concepts from a variety of sources. It applies at all levels of government and allows private and nongovernmental organizations to integrate with government planning efforts. Although individual planners can use this process, it is most effective when used by a planning team.

Steps in the Planning Process

There are many ways to produce an EOP. The planning process that follows is flexible and allows communities to adapt it to varying characteristics and situations. While not ideal, if time is a constraint, steps can be minimized or skipped in order to accelerate the process. Small communities can follow just the steps that are appropriate to their size, known risks, and available planning resources. Figure 4.1 depicts steps in the planning process. At each step in the planning process, jurisdictions should consider the impact of the decisions made on training, exercises, equipment, and other requirements.

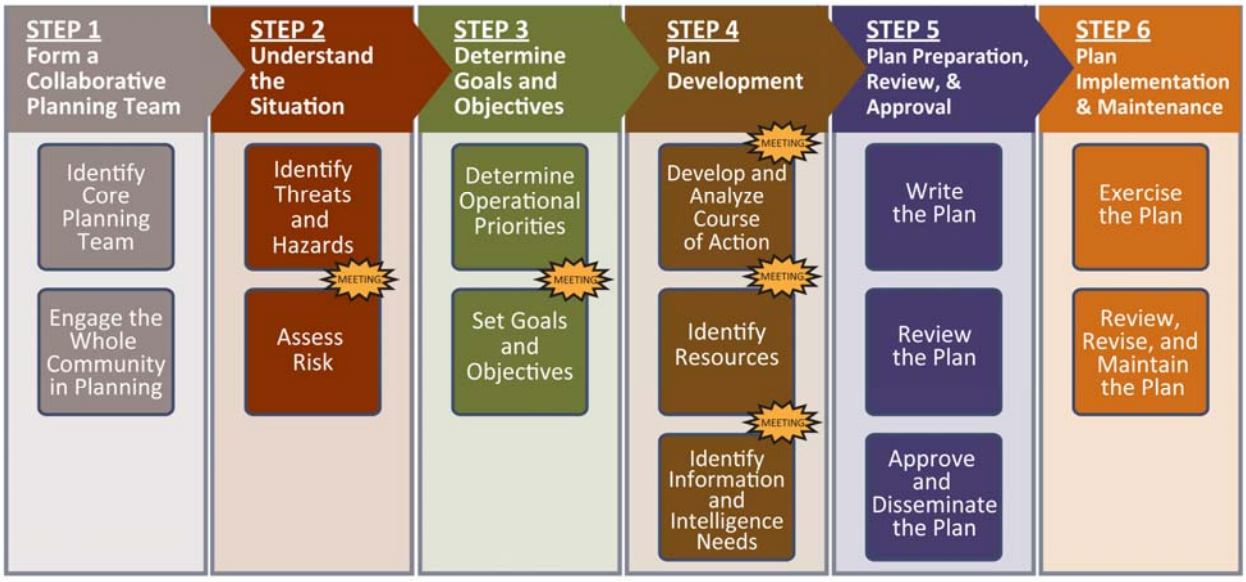


Figure 4.1: Steps in the Planning Process

Step 1: Form a Collaborative Planning Team

Experience and lessons learned indicate that operational planning is best performed by a team. Using a team or group approach helps organizations define the role they will play during an operation. Case studies and research reinforce this concept by pointing out that the common thread found in successful operations is that participating organizations have understood and accepted their roles. In addition, members of the planning team should be able to understand and accept the roles of other departments and agencies. One goal of using a planning team is to build and expand relationships that help bring creativity and innovation to planning during an incident. This approach helps establish a planning routine, so that processes followed before an incident occurs are the same as those used during and following an incident.

A community benefits from the active participation of all stakeholders. Some tips for gathering the team together include the following:

- ***Plan ahead.*** The planning team should receive plenty of notice about where and when the planning meeting will be held. If time permits, ask the team members to identify the time(s) and place(s) that will work for the group.
- ***Provide information about team expectations.*** Planners should explain why participating on the planning team is important to the participants' agencies and to the community itself, showing the participants how their contributions will lead to more effective operations. In addition, budget and other project management concerns should be outlined early in the process.
- ***Ask the senior elected or appointed official or designee to sign the meeting announcement.*** A directive from the executive office carries the authority of the senior official and sends a clear signal that the participants are expected to attend and that operational planning is important to the community.
- ***Allow flexibility in scheduling after the first meeting.*** Not all team members will need to attend all meetings. In some cases, task forces or subcommittees can complete the work. When the planning team chooses to use this option, it should provide project guidance (e.g., time frames, milestones) but let the subcommittee members determine when it is most convenient to meet.
- ***Consider using external facilitators.*** Third-party facilitators can perform a vital function by keeping the process focused and mediating disagreements.

Case Study: A Small Community Planning Team

A small community took the following approach to forming its planning team:

Who was involved in the core planning team?

The core planning team was composed of any department or office that was likely to be involved in most, if not all, responses. The five to seven most central people in this community were: the Fire and Police Chiefs, the Emergency Manager and the Planner, and the Head of Public Works.

What did they do?

- Studied the composition of the population within the community
- Provided information to create a complete draft plan
- Answered questions about the community for the draft plan
- Provided additional commentary on roles and responsibilities
- Gave information about the community's standard operations
- Clarified command structures
- Provided information about resources, capabilities, threats, and risks
- Gave writers information for integration

Who participated in the expanded planning team?

The expanded planning team included responders and stakeholders who might become involved in a major incident. In this case, the community used a 10- to 20-member group that included emergency managers from surrounding communities, business leaders, secondary responders, representatives from industry, community leaders (including leaders from the disability community), and community contractors.

What did they do?

- Reviewed the full plan
- Provided insights and recommendations for improvement
- Integrated additional perspectives
- Agreed to provide additional support



The key to planning in a group setting is to allow open and frank discussion during the process. Interaction among planners can help elicit a common operational understanding. Individual group members must be encouraged to express objections or doubts. If a planner disagrees with a proposed solution, that planner must also identify what needs to be fixed.

Identify Core Planning Team

In most jurisdictions, the emergency manager or homeland security manager is the senior official's policy advisor for prevention, protection, response, recovery, and mitigation strategies, as well as overall preparedness. The emergency manager or homeland security manager may also be the prevention and protection advisor, if that role is not given to a law enforcement official or other designated advisor. In these roles, emergency managers or homeland security managers are often responsible for coordinating and developing an EOP, filling the role of lead planner. This means that the emergency manager provides oversight to a jurisdiction's planning team. However, other government agencies or departments may have statutory authority and responsibility that overlaps or complements this responsibility. For example, law enforcement often has the lead in addressing prevention and protection, while public health addresses unique epidemiological issues.

It is important to include a hazard mitigation expert on the planning team. Mitigation planners are a valuable resource for information concerning hazard analysis, functional vulnerabilities, critical facilities, and funding availability. Including mitigation promotes continuity throughout emergency planning and helps reduce the number of physical constraints by leveraging resources to address anticipated operational requirements.

Increasingly, emergency management agencies are hiring permanent staff and/or contracting subject matter experts to provide expertise on disability, access and functional needs, children, and household pets and service animals for the emergency planning process. These experts provide critical perspectives and information to ensure individuals with disabilities, others with access and functional needs, and individuals with limited English proficiency are fully integrated into EOPs. These experts can also help ensure compliance with anti-discrimination laws.

The planner must ensure that operational planning involves the jurisdiction's entire emergency management and homeland security team. Initially, the team should be small, consisting of planners from the organizations that usually participate in emergency or homeland security operations. They form the core for all planning efforts. As an EOP matures, the core team expands to include other planners.

Jurisdictions that use an agency and department operational structure might use a core team consisting of planners from the following:

- Emergency management
- Law enforcement
- Fire services
- EMS
- Public health

Even at this early stage, planners should begin thinking about the impact of who is involved in the planning process, as it will have a major impact on preparedness and operational requirements.

For example, if there is no hazardous materials response capability in a jurisdiction, planners will need to consider how to obtain that capability (through agreements) or develop that capability (through equipment, training, licensing, etc.).

Conversely, failure to include groups in planning (such as advocates for those with access or functional needs) will lead to mistakes and/or shortfalls in capability and resource requirements.



- Hospitals and health care facilities
- Public works
- Utility operators
- Education
- Agriculture
- Animal control
- Social services
- Childcare, child welfare, and juvenile justice facilities (including courts)
- National Guard
- Private sector
- Civic, social, faith-based, educational, professional, and advocacy organizations (e.g., those that address disability and access and functional needs issues, children's issues, immigrant and racial/ethnic community concerns, animal welfare, and service animals).

A jurisdiction might want to base the core planning team's membership on the EOP structure it uses. For example, jurisdictions using an ESF structure might form a core team composed of planners from the lead agencies or departments for ESF #4 (Fire), ESF #5 (Emergency Management), ESF #6 (Mass Care), ESF #8 (Public Health and Medical Services), and ESF #13 (Public Safety). Note that these ESF titles are examples. While the Federal naming convention is preferred for consistency, a jurisdiction should use its local ESF naming convention in its plans.

Regardless of the core planning team structure, the involvement of executives from the member agencies, departments, or CIKR organizations (where appropriate) is critical. They are able to speak with authority on policy, provide subject matter expertise, and provide accountability as it relates to their agency or department.

Engaging the Whole Community in Planning

Engaging in community-based planning—planning that is *for* the whole community and *involves* the whole community—is crucial to the success of any plan. Determining how to effectively engage the community in this planning process is one of the biggest challenges faced by planners. This challenge may be built on misperceptions about a community's interest in participating in the process, security concerns about involving those outside government, or a failure to jointly and adequately define the role of the community in the planning process. Community leaders have a keen understanding about their community's needs and capabilities and are a valuable stakeholder that can support the planning process in many ways. Community-based planning should also include notifying affected, protected groups of opportunities to participate in planning activities and making such activities accessible to the entire community (e.g., use of interpreters and translated announcements).

Communities may or may not be geographically constrained. Geographic communities are generally the basis for emergency management agencies and are constructed around political boundaries. The geographic community includes a number of communities of interest. These communities of interest are not necessarily confined to the borders of a jurisdiction and may center on physical, social, cultural, or philosophical structures. Examples include:

- Civic, social, faith-based, educational, professional, and advocacy organizations



- Immigrant and limited English proficiency constituencies
- Voluntary organizations
- Private service providers
- Critical infrastructure operators
- Local and regional corporations.

The private sector is a critical component in community engagement. Not only are they often the primary providers of critical services to the public, they also possess knowledge and resources to supplement and enhance preparedness, response, and recovery efforts. Often, private sector and government missions overlap—early coordination ensures effective sharing of information and resources and facilitates the establishment of common goals and objectives.

Private sector engagement presents unique challenges. The private sector plays a critical role in any disaster, and it is important to ensure they are active participants in the process, including involvement in jurisdictional training and exercise programs. An effective outreach program is critical in developing these partnerships.

Disasters begin and end locally. After the response is over, it is the local community that lives with the decisions made during the incident. Therefore, communities should have a say in how a disaster response occurs. They should also shoulder responsibility for building their community's resilience and enhancing its recovery before, during, and after a disaster. The community may have capabilities and resources that do not exist in the volume needed or at all within the traditional government response structure.

Case Studies: Private Sector Partnerships

Arlington County, Virginia has developed the "Safer Arlington Partnership," a program engaging non-profit, private sector, and public sector organizations in which members work together to enhance the level of preparedness in the County. The program's mission is achieved through four task forces: Training and Exercises, Information and Tools, Resource Inventory and Management, and Education and Outreach. More information regarding this initiative can be found at http://www.fema.gov/pdf/privatesector/safer_arlington_partnership.pdf.

Several large metropolitan areas have also integrated the private sector into their catastrophic planning activities, including Honolulu (pandemic planning), Los Angeles/ Long Beach (disaster housing), National Capital Region (evacuation and contra-flow), New York/New Jersey (infrastructure protection, disaster housing), Norfolk (commodities and resource management), and Seattle (evacuation and sheltering).

There are many ways to leverage the community's capabilities and knowledge in the preparedness process. Although often viewed as a challenge, engaging the community can be successfully accomplished when approached correctly.

The foundation for community-based planning is knowing the community (see Figure 4.2). A keen understanding of the actual population and its needs will have a profound effect on the success or failure of any plan. Understanding the requirements of those with access and functional needs affects mass care courses of action and the resulting plans. Additionally, the number of children in the community will affect the ways in which schools are used as a resource, in turn defining some of the requirements for reunification planning. Engaging the community will increase the likelihood that people follow protective action measures during a crisis because they understand how plans address household pets or service animals. Likewise, taking into account the perceptions and fears of some populations, such as undocumented immigrants, may increase the plan's effectiveness.



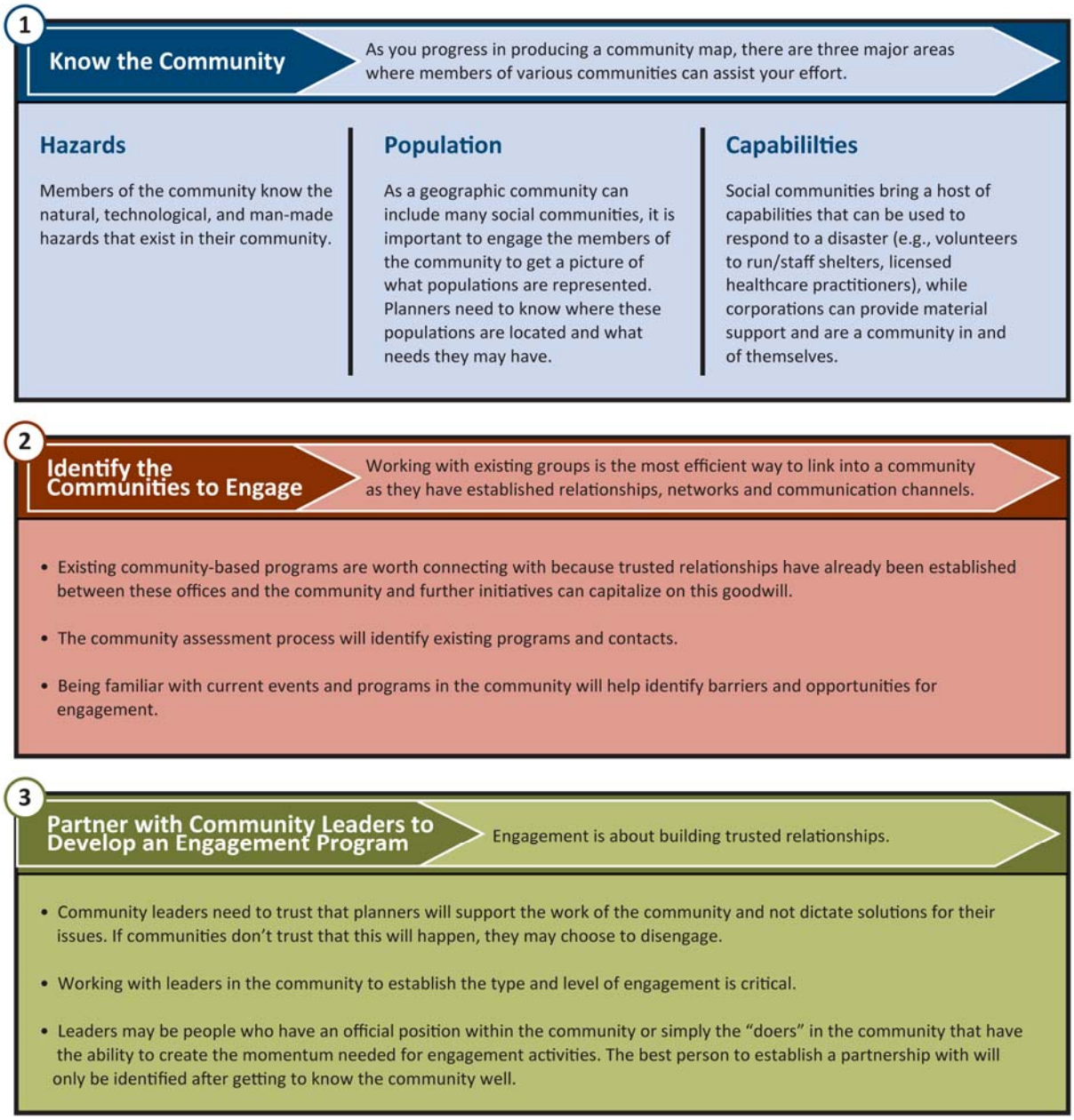


Figure 4.2: Community Engagement in Planning

Finally, it is critical to include civic leaders, members of the public, and representatives of community-based organizations in the planning process. They may serve as an important resource for validating assumptions about public needs, capabilities, and reactions. Because many planning assumptions and response activities will directly impact the public at large, involving the whole community during the planning phase is essential. This involvement should continue during validation and implementation. Potential roles include support to planning teams, public outreach, and establishing Community Emergency Response Teams (CERT). Planners can obtain assistance for including the whole community in the planning process from state or local Citizen Corps Councils, as well as the Local Emergency Planning Committee (LEPC). Pre-established partnerships and relationships are important for leveraging subject matter expertise and resources during a disaster.



Step 2: Understand the Situation

Effective risk management depends on a consistent comparison of the hazards a particular jurisdiction faces. This is typically performed through a threat/hazard identification and risk assessment process that collects information about threats and hazards and assigns values to risk for the purposes of determining priorities, developing or comparing courses of action, and informing decision making. Depending on the resources available and leadership, a jurisdiction could conduct an in-depth process—cataloging everything from specific asset vulnerabilities to emergency personnel staffing levels. Often, however, this level of analysis is not possible or practical; in such cases, jurisdictions should conduct a risk assessment of achievable and appropriate scale and scope.

Identify Threats and Hazards

Planners should start the problem-solving process by conducting research and analysis on the jurisdiction's threats and hazards. Considering the potential risks a jurisdiction may face brings specificity to the planning process. If risks are problems and operational plans are the solution, then hazard and threat identification and analysis are key steps in the planning process.

The first step of research focuses on gathering information about the jurisdiction's planning framework, potential risks, resource base, demographics, household pet and service animal population, and geographic characteristics that could affect emergency operations. There are many existing resources available to support planners in this step.

Threat assessments prepared for or by agencies may provide information on potential "soft targets" and threats within the jurisdiction. In addition, jurisdictions' hazard mitigation plans are an excellent resource for this step, as they are required to identify, catalog, and analyze all natural hazards that have the ability to impact the specified community. Jurisdictions should take additional steps to include human-caused and technological hazards.

Federal and state analyses that include data about historical incidents faced by the community also provide valuable information for this step. In addition, local organizations (e.g., the local chapter of the American Red Cross), utilities, other businesses, and members of the planning team can provide records about their experiences.

As an additional source, planning teams can use state and local fusion centers to provide analytical products, such as risk and trend analyses, that are derived from the systematic collection and evaluation of threat information. Fusion centers also provide access to national-level intelligence and can serve as a mechanism to "deconflict" information.

Sources for expertise on hazard or threat potential include jurisdictional agencies; academic, industrial, and public interest group researchers; private consultants specializing in hazard or threat analysis; and professional associations concerned with the hazards or threats on a planner's list. Sources of information on the community and possible consequences from risks vary. To determine the potential consequences of certain facility-based hazards, planners might check with the facility owner/operator or the agency (Federal, state, territorial, tribal, local, or regional) that regulates that kind of facility. The LEPC may be able to assist with this information. For demographics, census data are available, as are off-the-shelf computer products that organize such data by zip code. Knowing the number and type of household pets and service animals the jurisdiction may need to accommodate during an emergency situation will also guide preparedness activities. Sources of such data include market statistics, household pet licensing databases, and rabies vaccination records.



The planning team should also make extensive use of the existing information about the jurisdiction. For example, the local planning and zoning commission or department may have extensive demographic, land use, building stock, and similar data. Building inspection offices maintain data on the structural integrity of buildings, codes in effect at time of construction, and the hazard effects that a code addresses. Local public works (or civil engineering) departments and utilities are sources for information on potential damage to and restoration time for the critical infrastructures threatened by hazard effects. The chamber of commerce may offer a perspective on damage to businesses and general economic loss. Other sources of information mentioned previously—emergency service logs and reports, universities, professional associations, etc.—also apply.

Understanding the consequences of a potential incident requires gathering information about the potential access and functional needs of residents within the community. To begin planning, jurisdictions must have an accurate assessment—an informed estimate of the number and types of individuals with disabilities and others with access and functional needs residing in the community. Emergency planners should base their assessments on lists and information collected from multiple relevant sources, such as:

- U.S. Census data
- Social services listings (e.g., dialysis centers, Meals on Wheels)
- Paratransit providers
- Bureau of motor vehicles (accessible parking permit holders)
- Centers for Independent Living
- Home health agencies
- Vocational rehabilitation and job access services
- Disability services providers
- Health or behavioral health agencies
- Utility providers
- Congregate settings (e.g., nursing homes, summer camps)
- Schools and universities
- Medicaid
- Hospitals
- Daycare centers (for children or senior citizens)
- Places of worship
- Homeless shelters
- Housing programs.

If planners compile the numbers from various lists, often referred to as the “list of lists” concept, they will have an estimate of the number of individuals residing in their communities, which will benefit planning for sufficient transportation and sheltering. Together, these lists can provide raw numbers vital to understanding the magnitude of the community’s requirements. Emergency managers should also gather as much information as possible regarding the types of services these individuals require so emergency staff can be adequately trained and resource needs can be met.

These different types of assessments are sometimes mistakenly considered the same as registries when, in fact, they are different. A registry is a database of individuals who voluntarily sign up and meet the eligibility requirements for receiving emergency response services based on a need (the criteria for which should be established by the jurisdiction).

The next step of the threat and hazard identification process is to organize the information into a format that is usable by the planning team. One effective method for organizing hazard or threat information is to use a matrix based on dimensions used during the risk analysis process:

- Probability or frequency of occurrence
- Magnitude (the physical force associated with the hazard or threat)



- Intensity/severity (the impact or damage expected)
- Time available to warn
- Location of the incident (an area of interest or a specific or indeterminate site or facility)
- Potential size of the affected area
- Speed of onset (how fast the hazard or threat can impact the public)
- Duration (how long the hazard or threat will be active)
- Cascading effects.

Depending on the kinds of decisions and analyses the information is meant to support, planners might use other categories for data organization. For example, the decision that one hazard poses a greater threat than another may require only a qualitative estimate (e.g., high versus medium), whereas planning how to deal with health and medical needs caused by a particular hazard may require estimates of likely fatalities and injuries.

Assess Risk

The risk assessment[7] is the basis for EOP development. The assessment helps a planning team decide what hazards or threats merit special attention, what actions must be planned for, and what resources are likely to be needed. The analysis method inventories, evaluates, and provides loss estimates for assets deemed critical during the response and recovery phases of an incident. Planners can also obtain the Hazards U.S. Multi-Hazard (HAZUS-MH) model from FEMA. HAZUS-MH is a nationally applicable and standardized methodology and software program that estimates potential losses from earthquakes, floods, and hurricane winds. This type of hazard assessment is similar to that which is required for hazard mitigation plans. In fact, if the community possesses a FEMA-approved multi-hazard mitigation plan, an assessment may be readily available. Mitigation plans can be used as reference documents to simplify the development of most hazards-based analyses.

Remember that as the situation is analyzed and hazards or threats are prioritized, each carries with it training, equipment, and exercise requirements. It is not too early—even if only at a high level—to consider what is within the scope of capability of the jurisdiction and how those capabilities can be enhanced through preparedness activities and by the adding or sharing of resources.

The information gathered during the jurisdictional assessment of individuals with disabilities and others with access and functional needs requires a detailed analysis. Emergency planners need to review the assessment findings and analyze the quantity and types of resources (including personnel) needed during different types of incidents. For example, a jurisdiction with a large number of limited English proficiency residents might need to identify methods by which language assistance will be provided (e.g., bilingual personnel, interpreters, translated documents) to support operations, such as evacuation, sheltering, and recovery. Additionally, planners need to work with social services agencies to plan for unaccompanied minors and to assess for types of resources needed for the community's children during and following a disaster.

Hazard and threat analysis requires that the planning team knows risks that have occurred or could occur in the jurisdiction. The process should begin with a list of the risks that concern planners, developed from research conducted earlier in the planning process. A list of concerns might include those listed in Table 4.1.

[7] FEMA Publication 386-2, Understanding Your Risks: Identifying Hazards and Estimating Losses, provides a detailed method for conducting hazard and risk assessments for many hazards.

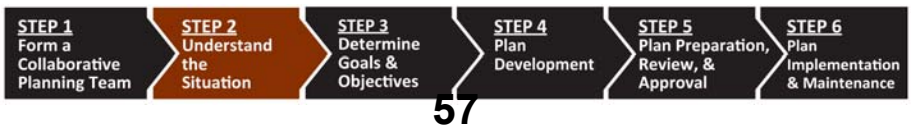


Table 4.1: Sample Hazards List

Natural Hazards	Technological Hazards	Human-Caused Hazards
• Avalanche • Disease outbreak • Drought • Earthquake • Epidemic • Flood • Hurricane • Landslide • Tornado • Tsunami • Volcanic eruption • Wildfire • Winter storm	• Airplane crash • Dam/levee failure • HAZMAT release • Power failure • Radiological release • Train derailment • Urban conflagration	• Civil disturbance • Cyber events • Terrorist acts • Sabotage • School violence

Planners must keep in mind that hazard or threat lists pose two problems. The first is exclusion or omission. There is always a potential for new and unexpected risks (part of the reason why maintaining an all-hazards, all-threats capability is important). The second is that such lists involve groupings, which can affect subsequent analysis. A list may give the impression that hazards or threats are independent of one another, when in fact they are often related (e.g., an earthquake might cause dam failure). Lists may group very different causes or sequences of events that require different types of responses under one category. For example, "Flood" might include dam failure, cloudbursts, or heavy rain upstream. Lists also may group a whole range of consequences under the category of a single hazard. "Terrorism," for example, could include use of conventional explosives against people or critical infrastructure; nuclear detonation; or release of lethal chemical, biological, or radiological material.

Using a risk analysis, the planning team must compare and prioritize risks to determine which hazards or threats merit special attention in planning (and other emergency and homeland security management efforts). The team must consider the frequency of the hazard or threat and the likelihood or severity potential of its consequences in order to develop a single indicator of the risk to the jurisdiction. This effort allows for comparisons and the setting of priorities. While a mathematical approach is possible, it may be easier to manipulate qualitative ratings (e.g., high, medium, low) or index numbers (e.g., reducing quantitative information to a 1-to-3, 1-to-5, or 1-to-10 scale based on defined thresholds) for different categories of information used in the ranking scheme. Some approaches involve the consideration of only two categories—frequency and consequences—and treat them as equally important. In other approaches, potential consequences receive more weight than frequency. While it is important to have a sense of the magnitude involved (whether in regard to the single indicator used to rank hazards or to estimate the numbers of people affected), these indicators are static. Some hazards or threats may pose a risk to the community that is so limited that additional analysis is not necessary. Others might be dynamic, such as HAZMAT toxicity and transportation routes.

The analysis process produces facts and assumptions, which can be distinguished as follows:

- Facts are verified pieces of information, such as laws, regulations, terrain maps, population statistics, resource inventories, and prior occurrences.



- Assumptions consist of information accepted by planners as being true in the absence of facts in order to provide a framework or establish expected conditions of an operational environment so that planning can proceed. Assumptions are used as facts only if they are considered valid (or likely to be true) and are necessary for solving the problem.

Incident managers replace assumptions with facts when they implement a plan. For example, when producing a flood annex, planners may assume the location of the water overflow, size of the flood hazard area, and speed of the rise in water. When the plan is put into effect as the incident unfolds, operations personnel replace assumptions with the facts of the situation and modify the plan accordingly. Planners should use assumptions sparingly and put great effort into performing research and acquiring facts, including the use of historical precedent.

The outcomes of the analysis process help planners determine goals and objectives (Step 3) and select the supporting planning concept they will use when developing the plan (Step 4).

Step 3: Determine Goals and Objectives

Determine Operational Priorities

Operational priorities specify what the responding organizations are to accomplish to achieve a desired end-state for the operation. The senior official may communicate desired end-states for the operations addressed in the plans. By using information from the risk profile developed as part of the analysis process, the planning team engages the senior official to establish how the hazard or threat would evolve in the jurisdiction and what defines a successful outcome for responders, disaster survivors, and the community.

Starting with a given intensity for the hazard or threat, the team imagines an incident's development from prevention and protection efforts, through initial warning (if available) to its impact on the jurisdiction (as identified through analysis) and its generation of specific consequences (e.g., collapsed buildings, loss of critical services or infrastructure, death, injury, displacement). These scenarios should be realistic and created on the basis of the jurisdiction's hazard/threat and risk data. Planners may use the incidents that have the greatest impact on the jurisdiction (worst-case), those that are most likely to occur, or an incident constructed from the impacts of a variety of risks. During this process of building an incident scenario, the planning team identifies the requirements that determine actions and resources. Planners are looking for requirements generated by the hazard or threat, the response, and by constraints/restraints.

- Requirements can be caused by the nature of the hazard or threat. They lead to functions, such as law enforcement intervention, public protection, population warning, and search and rescue. Response requirements are caused by actions taken in response to an agent-generated problem. These tend to be common to all operations. An example is the potential need for emergency refueling during a large-scale evacuation. Subsets could include the needs to find a site for refueling, identify a fuel supplier, identify a fuel pumping method, control traffic, and collect stalled vehicles.
- A constraint is something that must be done ("must do"), while a restraint is something that prohibits action ("must not do"). They may be caused by a law, regulation, or management directive; some physical characteristic (e.g., terrain and road networks that make east-west evacuations impossible); or resource limitations.

Once the requirements are identified, the planning team restates them as priorities and affirms those priorities with the senior official.



Set Goals and Objectives

Goals and objectives must be carefully crafted to ensure they support accomplishing the plan mission and operational priorities. They must also clearly indicate the desired result or end-state they are designed to yield. This approach enables unity of effort and consistency of purpose among the multiple groups and activities involved in executing the plan.

Goals are broad, general statements that indicate the intended solution to problems identified by planners during the previous step. They are what personnel and equipment resources are supposed to achieve. They help identify when major elements of the response are complete and when the operation is successful.

Objectives are more specific and identifiable actions carried out during the operation. They lead to achieving response goals and determining the actions that participants in the operation must accomplish. Translating these objectives into activities, implementing procedures, or operating procedures by responsible organizations is part of planning. As goals and objectives are set, planners may identify more requirements that will feed into the development of courses of action as well as the capability estimate (see Step 4).

Example: Relationships among the Mission, Operational Priorities, Goals, and Objectives

Plan Mission: Effectively coordinate and direct available resources to protect the public and property from hazards or threats.

Operational Priority: Protect the public from hurricane weather and storm surge.

Goal: Complete evacuation before arrival of tropical storm winds.
Desired result: All self- and assisted evacuees are safely outside of the expected impact area prior to impact.

Objective: Complete tourist evacuation 72 hours before arrival of tropical storm winds.
Desired result: tourist segment of public protected prior to hazard onset, allowing resources to be redirected to accomplishing other objectives in support of this goal or other goals.

Step 4: Plan Development

Develop and Analyze Courses of Action

This step is a process of generating, comparing, and selecting possible solutions for achieving the goals and objectives identified in Step 3. Planners consider the requirements, goals, and objectives to develop several response alternatives. The art and science of planning helps determine how many solutions or alternatives to consider; however, at least two options should always be considered. Developing only one solution may speed the planning process, but it will probably provide for an inadequate response, leading to more damaging effects on the affected population or environment.

Developing courses of action uses the hybrid planning approach previously discussed. When developing courses of actions, planners depict how an operation unfolds by building a portrait of the incident's actions, decision points, and participant activities. This process helps planners identify tasks that occur immediately at incident initiation, tasks that are more mid-incident focused, and tasks that affect long-term operations. The planning team should work through this process by using tools that help members visualize operational flow, such as a white board, "sticky note" chart (see Figure 4.3), or some type of project management or special planning software.



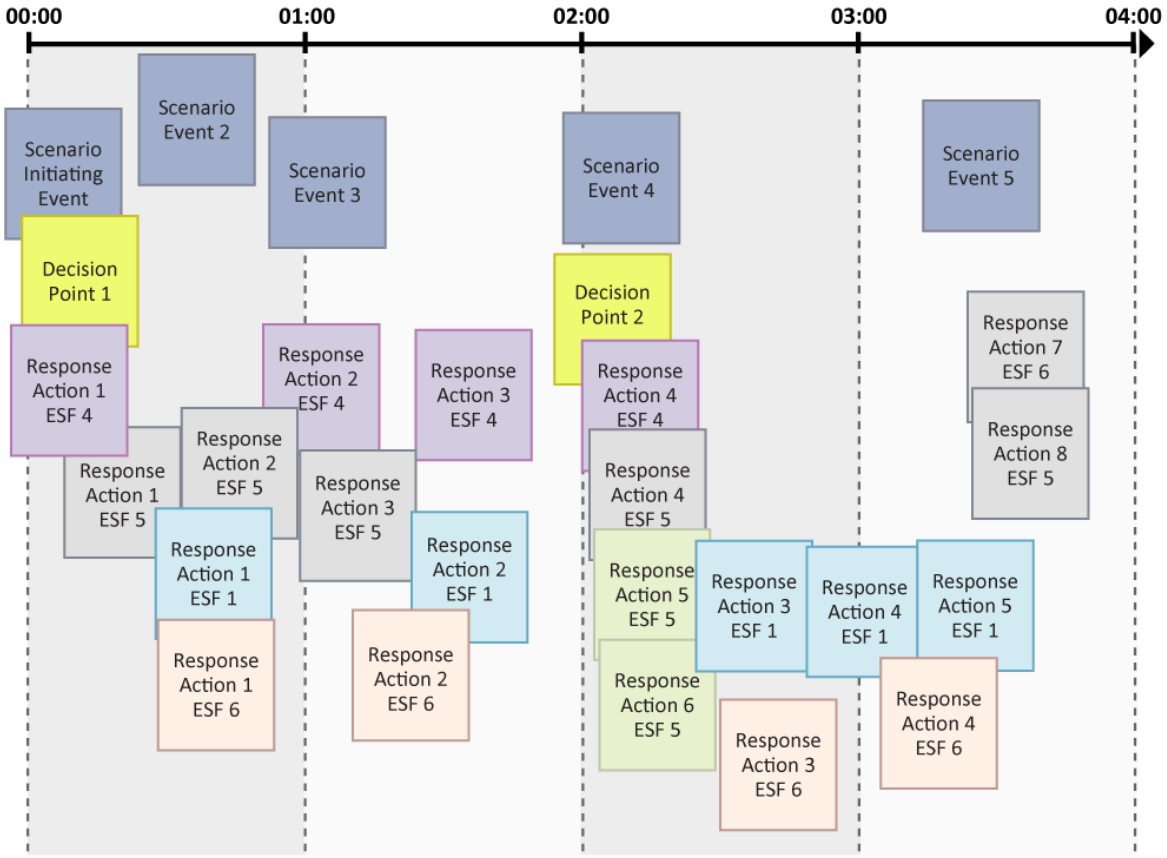


Figure 4.3: "Sticky Note" Chart

Course of action development follows these steps:

Courses of Action in a Nutshell

Courses of action address the what/who/when/where/why/how for each solution.

As each potential course of action is identified, the planner should consider where it supports the priorities, goals, and objectives established by the senior official. Additionally, the course of action should be examined to determine whether it is feasible and whether the stakeholders that are needed to implement it find it acceptable.

- ***Establish the timeline.*** Planners should cover all mission areas in the timeline and typically use the speed of incident onset to establish the timeline. The timeline may also change by phases. For example, a hurricane's speed of onset is typically days, while a major HAZMAT incident's speed of onset is minutes. The timeline for a hurricane might be in hours and days, particularly during the pre- and post-impact phases. The timeline for the HAZMAT incident would most likely be in minutes and hours. For a multijurisdictional or layered plan, the timeline for a particular scenario is the same at all participating levels of government. Placement of decision points and response actions on the timeline depicts how soon the different entities enter the plan.
- ***Depict the scenario.*** Planners use the scenario information developed in Step 3 and place the incident information on the timeline.
- ***Identify and depict decision points.*** Decision points indicate the place in time, as incidents unfold, when leaders anticipate making decisions about a course of action. They indicate where and when decisions are required to provide the best chance of achieving an intermediate objective or response



goal (the desired end-state). They also help planners determine how much time is available or needed to complete a sequence of actions.

- ***Identify and depict operational tasks.*** For each operational task depicted, some basic information is needed. Developing this information helps planners incorporate the task into the plan when they are writing it. Planners correctly identify an operational task when they can answer the following questions about it:
  - What is the action?
  - Who is responsible for the action?
  - When should the action take place?
  - How long should the action take and how much time is actually available?
  - What has to happen before?
  - What happens after?
  - What resources does the person/entity need to perform the action?
- ***Select courses of action.*** Once the above analysis is complete, planners must compare the costs and benefits of each proposed course of action against the mission, goals, and objectives. Based on this comparison, planners then select the preferred courses of action to move forward in the planning process. *While not necessary for every course of action identified, planners should use their best judgment and identify when the selection of a course or courses of action will need to be elevated to the senior elected or appointed official for approval.* Where practical, the appropriate official should approve these actions prior to the review and completion of the plan.

"Red-Teaming" as a Method for Analyzing Courses of Action

A "peer review" process for plans is a useful tool for examining whether plans contain all of the necessary elements. Leveraging expertise from outside the jurisdiction will aid in challenging assumptions and identifying gaps in the jurisdiction's courses of action.

For plans dealing with adaptive threats (e.g., terrorism), examining plans "through the eyes of the adversary" can lead to significant improvements and a higher probability of success. This process is known as "red-teaming." Essential elements of a red-team review include:

- Engaging the law enforcement community and fusion centers to act as the adversary
- Understanding the operational environment (e.g., geography, demography, economy, culture)
- Establishing a potential adversary's identity, resources, tactics, and possible courses of action
- Evaluating the plan under multiple scenarios and a wide range of circumstances using tabletop exercises, facilitated seminars, and computer models and simulations to aid in analysis.

Red teams should foster a culture of critical thinking, intellectualism, and self-criticism. Red team members should be creative, objective, intellectually curious, and able to manage their egos. Red teams must act with ingenuity and enthusiasm to develop and apply customized approaches to every problem. Red teams need to cultivate expertise, recognize the limitations of their own knowledge, constantly seek and evaluate new insights, and have access to the opinions and understanding of truly informed experts. Finally, red teams need to avoid being confrontational. Red team members need to work closely and solicit information from the staff; however, it is best if they conduct their work in the background to avoid interference from staff members who may have a vested interested in a particular course of action.

Red-teaming is most successful when senior officials endorse and support it. Participants must be able to make their comments in an atmosphere of confidentiality and non-attribution.



Identify Resources

Once courses of action are selected, the planning team identifies resources needed to accomplish tasks without regard to resource availability. The object is to identify the resources needed to make the operation work. Once the planning team identifies all the requirements, they begin matching available resources to requirements. By tracking obligations and assignments, the planning team determines resource shortfalls and develops a list of needs that private suppliers or other jurisdictions might fill. The resource base should also include a list of facilities vital to emergency operations, and the list should indicate how individual hazards might affect the facilities. Whenever possible, planners should match resources with other geographical/regional needs so that multiple demands for the same or similar resources can be identified and conflicts resolved. This step provides planners an opportunity to identify resource shortfalls to pass to higher levels of government and to prepare pre-scripted resource requests, as appropriate. The EOP should account for unsolvable resource shortfalls so they are not just "assumed away." The capability estimate process is critical to this effort.

A capability estimate is a planner's assessment of a jurisdiction's ability to take a course of action. Capability estimates help planners decide if pursuing a particular course of action is realistic and supportable. They help planners better project and understand what might take place during an operation. Simply stated, the capability estimate represents the capabilities and resource types needed to complete a set of courses of action. The resulting capability estimate will feed into the resource section of the plan or annex.

Capability estimates may be written documents, tables or matrices, or oral presentations. The information provided in a capability estimate should be able to answer most questions about a jurisdiction's ability to support a given course of action. Planners can use capability estimates for both future and current operational planning. At a minimum, planners should prepare separate capability estimates for personnel, administration and finance, operational organizations (e.g., fire, law enforcement, EMS), logistics, communications, equipment, and facilities. Each capability estimate compares the courses of action being considered for a particular operation. They make recommendations as to which course of action best supports the operation. Capability estimates should also identify the criteria used to evaluate each area; facts and assumptions that affect those areas; and the issues, differences, and risks associated with a course of action. Figure 4.4 provides a suggested format for a capability estimate.

Suggested Capability Estimate Format

1. **Hazard or Threat Characteristics:** States how the hazard's or threat's disaster dimensions affect the functional area
2. **Current Status:** Lists the current status (e.g., training, serviceability, quantity) of resources that affect the functional area
3. **Assumptions:** Lists any assumptions that affect the functional area
4. **Courses of Action:** Lists the courses of action considered during the planning process and the criteria used to evaluate them
5. **Analysis:** Provides the analysis of each course of action using the criteria identified in Step 4 of the planning process
6. **Comparison:** Compares and ranks the order of each course of action considered
7. **Recommendation:** Recommends the most supportable course of action from the functional area's perspective and identifies ways to reduce the impact of issues and deficiencies identified for that course of action

Figure 4.4: Suggested Capability Estimate Format



Resource identification is particularly important for supporting children; individuals with disabilities, access, and functional needs; and household pets and service animals. These individuals will require a range of communication, transportation, sheltering, human service, medical, and other resources throughout the life of an incident. Examples include, but are not limited to, durable medical equipment, oxygen, paratransit vehicles, accessible shelters, personal assistance services, and sign language interpreters. Identifying these requirements and the resources for meeting them ahead of time will help planners fully support individuals with disabilities and others with access and functional needs.

When identifying resources, the needs of children are often forgotten, including diapers, formula and food appropriate for all ages, portable cribs/ playpens and the capability to supervise unaccompanied children.

Identify Information and Intelligence Needs

Another outcome from course of action development is a "list" of the information and intelligence needs for each of the response participants. Planners should identify the information and intelligence they will need and their deadline(s) for receiving it to drive decisions and trigger critical actions. These needs eventually find their way into plan information collection matrices.

When developing courses of action, the process should be periodically "frozen" so the planning team can:

- Identify progress made toward the end-state, including goals and objectives met and new needs or demands
- Identify "single point failures" (i.e., tasks that, if not completed, would cause the operation to fall apart)
- Check for omissions or gaps
- Check for inconsistencies in organizational relationships
- Check for mismatches between the jurisdiction's plan and plans from other jurisdictions with which they are interacting.

Step 5: Plan Preparation, Review, and Approval

Write the Plan

This step turns the results of course of action development into an EOP. The planning team develops a rough draft of the basic plan, functional annexes, hazard-specific annexes, or other parts of the plan as appropriate. The recorded results from Step 4 provide an outline for the rough draft. As the planning team works through successive drafts, the members add necessary tables, charts, and other graphics. The planning team prepares and circulates a final draft to obtain the comments of organizations that have responsibilities for implementing the plan. (See Chapter 3 for more information on plan formats.)

Following these simple rules for writing plans and procedures will help ensure that readers and users understand their content:

- Keep the language simple and clear by writing in plain English. Summarize important information with checklists and visual aids, such as maps and flowcharts.
- Avoid using jargon and minimize the use of acronyms.
- Use short sentences and the active voice. Qualifiers and vague wording only add to confusion.
- Provide enough detail to convey an easily understood plan that is actionable. The amount of detail a plan should provide depends on the target audience and the amount of certainty about the situation.



- Format the plan and present its contents so that its readers can quickly find solutions and options. Focus on providing mission guidance and not on discussing policy and regulations. Plans should provide guidance for carrying out common tasks, as well as enough insight into intent and vision so that responders can handle unexpected events. However, when writing a plan, "stay out of the weeds." Procedural documents (e.g., SOPs/SOGs) should provide the fine details.
- Ensure accessibility by developing tools and documents (e.g., print, electronic, video) so they can be easily converted to alternate formats.

Review the Plan

Planners should check the written plan for its conformity to applicable regulatory requirements and the standards of Federal or state agencies, as appropriate, and for its usefulness in practice. Planners should consult the next level of government about its plan review cycle. Reviews of plans allow other agencies with emergency or homeland security responsibilities to suggest improvements to a plan on the basis of their accumulated experience. For example, states may review local plans, and, upon request, FEMA regional offices may assist states in the review of EOPs. Hazard-specific Federal programs, such as the Radiological Emergency Preparedness Program, require periodic review of certain sections of the all-hazards plan and may require review of associated SOPs/SOGs.

Commonly used criteria can help decision makers determine the effectiveness and efficiency of plans. These measures include adequacy, feasibility, and acceptability. Decision makers directly involved in planning can employ these criteria, along with their understanding of plan requirements, not only to determine a plan's effectiveness and efficiency but also to assess risks and define costs. Some types of analysis, such as a determination of acceptability, are largely intuitive. In this case, decision makers apply their experience, judgment, intuition, situational awareness, and discretion. Other analyses, such as a determination of feasibility, should be rigorous and standardized to minimize subjectivity and preclude oversights.

- ***Adequacy.*** A plan is adequate if the scope and concept of planned operations identify and address critical tasks effectively; the plan can accomplish the assigned mission while complying with guidance; and the plan's assumptions are valid, reasonable, and comply with guidance.
- ***Feasibility.*** A plan is feasible if the organization can accomplish the assigned mission and critical tasks by using available resources within the time contemplated by the plan. The organization allocates available resources to tasks and tracks the resources by status (e.g., assigned, out of service). Available resources include internal assets and those available through mutual aid or through existing state, regional, or Federal assistance agreements.
- ***Acceptability.*** A plan is acceptable if it meets the requirements driven by a threat or incident, meets decision maker and public cost and time limitations, and is consistent with the law. The plan can be justified in terms of the cost of resources and if its scale is proportional to mission requirements. Planners use both acceptability and feasibility tests to ensure that the mission can be accomplished with available resources, without incurring excessive risk regarding personnel, equipment, material, or time. They also verify that risk management procedures have identified, assessed, and applied control measures to mitigate operational risk (i.e., the risk associated with achieving operational objectives).
- ***Completeness.*** A plan is complete if it:
  - Incorporates all tasks to be accomplished
  - Includes all required capabilities



  - Integrates the needs of the general population, children of all ages, individuals with disabilities and others with access and functional needs, immigrants, individuals with limited English proficiency, and diverse racial and ethnic populations
  - Provides a complete picture of the sequence and scope of the planned response operation (i.e., what should happen, when, and at whose direction)
  - Makes time estimates for achieving objectives
  - Identifies success criteria and a desired end-state.
- ***Compliance.*** The plan should comply with guidance and doctrine to the maximum extent possible, because these provide a baseline that facilitates both planning and execution.

When using these five criteria, planners should ask the following questions:

- Did an action, a process, a decision, or the operational timing identified in the plan make the situation worse or better?
- Were new alternate courses of action identified?
- Were the requirements of children, individuals with disabilities, others with access and functional needs, immigrants, individuals with limited English proficiency, and diverse racial and ethnic populations fully addressed and integrated into all appropriate aspects of the plan?
- What aspects of the action, process, decision, or operational timing make it something to keep in the plan?
- What aspects of the action, process, decision, or operational timing make it something to avoid or remove from the plan?
- What specific changes to plans and procedures, personnel, organizational structures, leadership or management processes, facilities, or equipment can improve operational performance?

Additionally, when reviewing the plan, a jurisdiction does not have to provide all of the resources needed to meet a capability requirement established during the planning effort. However, the plan should explain where the jurisdiction will obtain the resources to support those required capabilities. For example, many jurisdictions do not have the bomb squads or urban search and rescue teams required to meet certain capabilities. Neighboring jurisdictions can provide those resources (or capability elements) through MAAs, MOAs, MOUs, regional compacts, or some other formal request process.

When conducting this review, the checklist in Appendix C will provide a useful benchmark to ensure all planning elements are addressed. In particular, those elements related to planning for children, individuals with access and functional needs, and those with household pets and service animals are critical to each component of the planning process. When planning for these groups, consider the following questions, while being mindful of specific concerns for immigrant, racial/ethnic communities, and individuals with limited English proficiency:

Incorporating Children[8]

- Preparedness
  - Does the planning group include individuals with expertise in pediatric issues, as well as relevant advocacy groups, service providers, and subject matter experts?

[8] For additional information, please see the *National Commission on Children and Disasters—2010 Report to the President and Congress* (http://www.childrenanddisasters.acf.hhs.gov/20091014_508IR_partII.pdf).



- Does the plan include demographic data and information on the number of children and where they tend to be (e.g., schools, daycare facilities)?
- Does the plan identify the agency with the lead role for coordinating planning efforts and ensuring that children are incorporated into all plans?
- Does the plan identify support agencies to assist the lead agency in coordinating planning efforts and ensuring that children are incorporated into all plans?
- Does the plan identify a child coordinator to provide expertise for the emergency planning process and to support the Incident Commander, the Planning Section, and/or the Operations Section during an emergency?
- Does the plan include mechanisms or processes to effectively identify children and families who will need additional assistance with their specific health-related needs in advance of, during, and following an emergency?
- Does the plan include mechanisms or processes to secure medical records to enable children with disabilities and/or other special health care needs to receive health care and sustained rehabilitation in advance of, during, and following an emergency?
- Does the plan identify which position/agency is authorized to direct supporting departments and agencies to furnish materials and commodities for children with disabilities and/or other special health care needs?
- Does the plan identify critical human services and ways to reestablish these services following a disaster for children and their families?
- Does the plan identify roles and responsibilities for supporting children?
- Does the plan prioritize governmental, nongovernmental, and private sector resources to meet critical needs such as accessible housing, rental assistance, debris removal, and emergency repairs for families of children with special health care needs?
- Does the plan describe vetting, training, and use of spontaneous volunteers who may offer their services to families with children?
- Does the plan include mechanisms or processes for provision of emergency childcare services?
- Does the plan include mechanisms or processes for the reunification of children with families?
- Do exercises include children and child congregate care settings such as school, childcare, child welfare, and juvenile justice facilities?

- Evacuation Support
  - Does the plan identify which official has the authority to order an evacuation?
  - Does the plan identify the roles and responsibilities for advanced/early evacuation, which is often necessary to accommodate children with mobility issues?
  - Does the plan identify the agency that has the lead role in coordinating an evacuation and ensuring children are incorporated into all evacuation considerations and planning?
  - Does the plan include mechanisms or processes for providing safe evacuation/transportation assistance to unaccompanied minors?
  - Does the plan include mechanisms or processes for tracking children, especially unaccompanied minors, during an evacuation?



  - Does the plan include affirmative recognition of the need to keep children with disabilities with their caregivers, mobility devices, other durable medical equipment, and/or service animals during an evacuation?
  - Does the plan include mechanisms or processes to ensure the availability of sufficient and timely accessible transportation to evacuate children with disabilities whose families do not have their own transportation resources?
  - Does the plan identify means and methods by which evacuation transportation requests from schools, specifically schools with children who have disabilities, are collected and consolidated?
  - Does the plan identify means by which incoming transportation requests will be tracked, recorded, and monitored as they are fulfilled?
  - Does the plan identify accessible transportation resources (including paratransit service vehicles, school buses, municipal surface transit vehicles, drivers, and/or trained attendants) that can provide needed services during an evacuation?
  - Does the plan address re-entry?
- Shelter Operations
  - Does the plan include mechanisms or processes for ensuring there will be adequate accessible shelters that fully address the requirements of children, including those with medical needs?
  - Does the plan address adequate shelter space allocation for families who have children with special needs (i.e., disabilities and chronic medical needs) who may need additional space for assistive devices (e.g., wheelchairs, walkers)?
  - Does the plan address necessary developmentally appropriate supplies (e.g., diapers, formula, age appropriate foods), staff, medicines, durable medical equipment, and supplies that would be needed during an emergency for children with disabilities and other special health care needs?
  - Does the plan include mechanisms or processes for handling of and providing for unaccompanied minors in shelters?
- Public Information and Outreach
  - Does the plan identify ways to promote personal preparedness among children, as well as their families and caregivers (including school and daycare personnel)?
  - Does the plan identify mechanisms for disseminating timely and accessible emergency public information using multiple methods (e.g., television, radio, Internet, sirens) to reach families of children with sensory and cognitive disabilities, as well as families with limited English proficiency?

Incorporating Individuals with Access and Functional Needs

- Preparedness
  - Does the planning group include individuals with disabilities and others with access and functional needs, as well as relevant advocacy groups, service providers, and subject matter experts?
  - Does the plan include a definition for "individuals with disabilities and others with access and functional needs," consistent with all applicable laws?
  - Does the plan include demographic data and information on the number of individuals in the community with disabilities and others with access and functional needs (using assessment and current registry data, if available)?



  - Does the plan identify the agency with the lead role for coordinating planning efforts and ensuring that individuals with access and functional needs are incorporated into all plans?
  - Does the plan identify support agencies to assist the lead agency in coordinating planning efforts and ensuring individuals with access and functional needs are incorporated into all plans?
  - Does the plan identify a disability advisor to provide expertise for the emergency planning process and to support the Incident Commander, the Planning Section, and/or the Operations Section during an emergency?
  - Does the plan include mechanisms or processes to effectively identify people who will need additional assistance and their specific health-related needs in advance of, during, and following an emergency?
  - Does the plan include mechanisms or processes to secure medical records to enable persons with disabilities or access and functional needs and acute health care needs to receive health care and sustained rehabilitation in advance of, during, and following an emergency?
  - Does the plan identify which position/agency is authorized to direct supporting departments and agencies to furnish materials and commodities for individuals with disabilities and others with access and functional needs?
  - Does the plan identify critical human services and ways to reestablish these services following a disaster for individuals with disabilities and others with access and functional needs to enable individuals to regain and maintain their previous level of independence and functioning?
  - Does the plan identify roles and responsibilities for supporting individuals with disabilities and others with access and functional needs during both the short- and long-term recovery process?
  - Does the plan prioritize governmental, nongovernmental, and private sector resources to meet critical needs such as accessible housing, rental assistance, debris removal, and emergency repairs for individuals with disabilities and others with access and functional needs?
  - Does the plan include mechanisms or processes for the training and use of spontaneous volunteers who may offer their services to individuals with disabilities and others with access and functional needs to assist with physical, programmatic, and communications access and other functional needs?

- Evacuation Support
  - Does the plan identify which official has the authority to order an evacuation?
  - Does the plan identify the roles and responsibilities for advanced/early evacuation, which is often necessary to accommodate persons with mobility issues?
  - Does the plan identify the agency that has the lead role in coordinating an evacuation and ensuring those individuals with disabilities and others with access and functional needs are incorporated into all evacuation considerations and planning?
  - Does the plan include affirmative recognition of the need to keep people with disabilities with their support systems, mobility devices, other durable medical equipment, and/or service animals during an evacuation?
  - Does the plan include mechanisms or processes to ensure the availability of sufficient and timely accessible transportation to evacuate individuals with disabilities and others with access and functional needs who do not have their own transportation resources?

  - Does the plan identify means and methods by which evacuation transportation requests from individuals with disabilities and others with access and functional needs are collected and consolidated?
  - Does the plan identify means by which incoming transportation requests will be tracked, recorded, and monitored as they are fulfilled?
  - Does the plan identify accessible transportation resources (including paratransit service vehicles, school buses, municipal surface transit vehicles, drivers, and/or trained attendants) that can provide needed services during an evacuation?
  - Does the plan address re-entry?
- Shelter Operations
  - Does the plan include mechanisms or processes for ensuring that general population shelters are accessible and have planned to fully address the physical, programmatic, and communications accessibility requirements of individuals with disabilities and others with access and functional needs?
  - Does the plan address the need for adequate shelter space allocation for individuals with disabilities and others with access and functional needs who may need additional space for assistive devices (e.g., wheelchairs, walkers)?
  - Does the plan include mechanisms or processes for ensuring Americans with Disabilities Act Accessibility Guidelines govern the shelter site selection and operation?
  - Does the plan address necessary staff, medicines, durable medical equipment, and supplies that would be needed during an emergency for individuals with disabilities and others with access and functional needs?
- Public Information and Outreach
  - Does the plan identify ways to promote personal preparedness among individuals with disabilities and others with access and functional needs, as well as their families and service providers?
  - Does the plan identify mechanisms for disseminating timely and accessible emergency public information using multiple methods (e.g., television, radio, Internet, sirens) to reach individuals with sensory, intellectual, and cognitive disabilities, as well as individuals with limited English proficiency?

Incorporating Household Pets and Service Animals

- Preparedness
  - Does the plan describe the partnership between the jurisdiction's emergency management agency, the animal control authority, the mass care provider(s), and the owner of each proposed congregate household pet sheltering facility?
  - Does the plan have or refer to an MOA/MOU or MAA that defines the roles and responsibilities of each organization involved in household pet and service animal response?
  - Do organizations with agreed upon responsibilities in the plan have operating procedures that govern their mobilization and actions?
  - Does the plan recommend just-in-time training for spontaneous volunteers and out-of-state responders?

  - Does the plan encourage household pet owners and service animal owners to make arrangements for private accommodations for themselves and their household pets and service animals prior to a disaster or emergency situation?

- Evacuation Support
  - Does the plan address the evacuation and transportation of household pets from their homes or by their owners or those household pets rescued by responders to congregate household pet shelters?
  - Does the plan address how owners will be informed where congregate household pet shelters are located and which shelter to use? Does the plan provide for the conveyance of household pets or service animals whose owners are dependent on public transportation?
  - Does the plan address how household pets that are provided with evacuation assistance are registered, documented, tracked, and reunited with their owners if they are separated during assisted evacuations?
  - Does the plan address the responsibility of transportation providers to transport service animals with their owners?
- Shelter Operations
  - Does the plan identify the agency responsible for coordinating shelter operations?
  - Does the plan provide guidance to human shelter operators on the admission and treatment of service animals?
  - Does the plan identify an agency in the jurisdiction that regulates nonemergency, licensed animal facilities (e.g., animal control shelters, nonprofit household pet rescue shelters, private breeding facilities, kennels)?
  - Does the plan establish criteria that can be used to expeditiously identify congregate household pet shelters and alternate facilities?
  - Does the plan provide guidance about utility provisions, such as running water, adequate lighting, proper ventilation, electricity, and backup power, at congregate household pet shelters?
  - Does the plan include mechanisms or processes to reduce/eliminate the risk of injury by an aggressive or frightened animal, the possibility of disease transmission, and other health risks for responders and volunteers staffing the congregate household pet shelter?
  - Does the plan recommend a pre-disaster inspection and development of agreements for each congregate household pet facility?
  - Does the plan provide for the care and maintenance of each facility while in use as a shelter?
  - Does the plan identify equipment and supplies that may be needed to operate each congregate household pet shelter, as well as supplies that household pet owners may bring with them to the congregate shelter?
  - Does the plan provide for the physical security of each congregate household pet facility, including perimeter controls and security personnel?
  - Does the plan provide for acceptance of donated resources (e.g., food, bedding, containers)?
  - Does the plan provide for the acquisition, storage, and security of food and water supplies? Does the plan provide for the diverse dietary needs of household pets?



- Registration and Animal Intake
  - Does the plan establish provisions for the sheltering of unclaimed animals that cannot be immediately transferred to an animal control shelter?
  - Does the plan provide for segregation or seizure of household pets showing signs of abuse?
  - Does the plan provide for household pet registration? Does the plan provide for installation and reading of microchip technology for rapid and accurate identification of household pets?
  - Does the plan provide for technical consultation/supervision by a veterinarian or veterinary technician as official responders?
  - Does the plan identify the need for all animals to have a current rabies vaccination?
  - Does the plan provide for the case when non-eligible animals are brought to the shelter?[9]
- Animal Care
  - Does the plan provide for the housing of a variety of household pet species (e.g., size of crate/cage, temperature control, appropriate lighting)?
  - Does the plan provide for separation of household pets based on appropriate criteria and requirements?[10]
  - Does the plan provide for the consultation of a veterinarian or animal care expert with household pet sheltering experience regarding facility setup and maintenance?
  - Does the plan provide for the setup and maintenance of household pet confinement areas (e.g., crates, cages, pens) for safety, cleanliness, and control of noise level?
  - Does the plan recommend the setup of a household pet first aid area inside each shelter?
  - Does the plan provide for the control of fleas, ticks, and other pests at each congregate household pet shelter?
  - Does the plan provide criteria for designating and safely segregating aggressive animals?
  - Does the plan provide for the segregation or quarantine of household pets to prevent the transmission of disease?
  - Does the plan recommend the relocation of a household pet to an alternate facility (e.g., veterinary clinic, animal control shelter) due to illness, injury, or aggression?
  - Does the plan recommend providing controlled areas (indoor or outdoor) for exercising dogs?
  - Does the plan provide for household pet waste and dead animal disposal?
  - Does the plan provide for the reunion of rescued animals with their owners?
  - Does the plan include mechanisms or processes to address the long-term care, permanent relocation, or disposal of unclaimed household pets?
- Public Information and Outreach
  - Does the plan provide mechanisms for continually updating public statements on shelter capacity and availability as people/animals are coming to shelters?
  - Does the plan provide for a public education program?

[9] According to FEMA Disaster Assistance Policy 9523.19, household pets do not include reptiles (except turtles), amphibians, fish, insects/arachnids, farm animals (including horses), and animals kept for racing purposes.
[10] Animal Welfare Publications and Reports. United States Department of Agriculture, Animal and Plant Health Inspection Service. http://www.aphis.usda.gov/animal_welfare/publications_and_reports.shtml.



  - Does the plan provide for the coordination of household pet evacuation and sheltering information with the jurisdiction's public information officer or Joint Information Center?
  - Does the plan provide for communication of public information regarding shelter-in-place accommodation of household pets, if available?

- Record Keeping
  - Does the plan define the methods of pre- and post-declaration funding for the jurisdiction's household pet and service animal preparedness and emergency response program?
  - Does the plan describe how to capture eligible costs for reimbursement by the Public Assistance Program as defined in Disaster Assistance Policy (DAP) 9523.19, Eligible Costs Related to Pet Evacuations and Sheltering?
  - Does the plan describe how to capture eligible donations for volunteer labor and resources as defined in DAP 9525.2, Donated Resources?
  - Does the plan describe how to capture eligible donations for mutual aid resources as defined in DAP 9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance?

Similar checklists can be developed as appropriate by the jurisdiction to address other critical population sectors, including populations with diverse languages and culture, populations with economic challenges, populations that depend on public transportation, and nonresident visitors.

Approve and Disseminate the Plan

Once the plan has been validated, the planner should present the plan to the appropriate elected officials and obtain official promulgation of the plan. The promulgation process should be based in a specific statute, law, or ordinance. Obtaining the senior official's approval through a formal promulgation documentation process is vital to gaining the widest acceptance possible for the plan. It is also important to establish the authority required for changes and modifications to the plan.

Once the senior official grants approval, the planner should arrange to distribute the plan and maintain a record of the people and organizations that received a copy (or copies) of the plan. "Sunshine" laws may require that a copy of the plan be posted on the jurisdiction's website or be placed in some other public accessible location. The plan should be available in alternate formats, upon request, to maintain compliance with the Americans with Disabilities Act.

Step 6: Plan Implementation and Maintenance

Training

After developing a plan, it must be disseminated and managers must be required to train their personnel so they have the knowledge, skills, and abilities needed to perform the tasks identified in the plan. Personnel should also be trained on the organization-specific procedures necessary to support those plan tasks.

Exercise the Plan

Evaluating the effectiveness of plans involves a combination of training events, exercises, and real-world incidents to determine whether the goals, objectives, decisions, actions, and timing outlined in the plan led to a successful response. In this way, homeland security and other emergency preparedness exercise programs become an integral part of the planning process. Similarly, planners need to be aware of lessons and practices from other communities. The Lessons Learned Information Sharing website



(http://www.llis.dhs.gov) provides an excellent forum for evaluating concepts identified in a jurisdiction's plan against the experiences of others.

A ***remedial action process*** can help a planning team identify, illuminate, and correct problems with the jurisdiction's EOP. This process captures information from exercises, post-disaster critiques, self-assessments, audits, administrative reviews, or lessons-learned processes that may indicate that deficiencies exist. Members of the planning team should reconvene to discuss the problem and to consider and assign responsibility for generating remedies across all mission areas. Remedial actions may involve revising planning assumptions and operational concepts, changing organizational tasks, or modifying organizational implementing instructions (i.e., the SOPs/SOGs). Remedial actions may also involve providing refresher training for an organization's personnel.

The final component of a remedial action process is a mechanism for tracking and following up on the assigned actions. As appropriate, significant issues and problems identified through a remedial action process and/or the annual review should provide the information needed to allow the planning team to make the necessary revision(s) to the plan.

"Living" Plans

Plans must not be placed on a shelf to collect dust!

Whenever possible, training and exercise must be conducted for each plan to ensure that current and new personnel are familiar with the priorities, goals, objectives and courses of action.

Plan maintenance is also critical to the continued utility of the plans an organization has developed. A number of operations have had setbacks due to old information, ineffective procedures, incorrect role assignments, and outdated laws. Further, the priorities for a jurisdiction may change over time as the makeup of the included communities change, as resources expand or contract, and as capabilities evolve.

Routinely Review Your Plans!

Review, Revise, and Maintain the Plan

This step closes the loop in the planning process. It focuses on adding the information gained by exercising the plan to the research collected in Step 2 and starting the planning cycle over again. Remember, planning is a continuous process that does not stop when the plan is published. Plans should evolve as lessons are learned, new information and insights are obtained, and priorities are updated.

Planning teams should establish a process for reviewing and revising the plan. Reviews should be a recurring activity. Some jurisdictions have found it useful to review and revise portions of their EOPs every month. Many accomplish their reviews on an annual basis. In no case should any part of the plan go for more than two years without being reviewed and revised. Teams should also consider reviewing and updating the plan after the following events:

- A major incident
- A change in operational resources (e.g., policy, personnel, organizational structures, management processes, facilities, equipment)
- A formal update of planning guidance or standards
- A change in elected officials
- Each activation
- Major exercises
- A change in the jurisdiction's demographics or hazard or threat profile
- A change in the acceptability of various risks
- The enactment of new or amended laws or ordinances.



Appendix A: Authorities and References

Authorities and Directives

Americans with Disabilities Act of 1990 as amended by the Americans with Disabilities Act Amendments Act of 2008, Public Law 110-325.

Architectural Barriers Act of 1968, 41 U.S.C. 4151 et seq.

Civil Rights Act of 1964, Title VI, Public Law 88-352.

Code of Federal Regulations, Title 44, Chapter 1, Federal Emergency Management Agency, October 1, 2009.

Consolidated Appropriations Act, 2008, Public Law 110-161.

Disaster Mitigation Act of 2000, Public Law 106-390.

Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, August 11, 2000.

Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness*, July 26, 2004.

Fair Housing Act as amended in 1988, 42 U.S.C 3601.

Homeland Security Act of 2002, 6 U.S.C. 101, et seq., as amended.

Homeland Security Presidential Directive 5, *Management of Domestic Incidents*, February 28, 2003.

Homeland Security Presidential Directive 7, *Critical Infrastructure Identification, Prioritization, and Protection*, December 17, 2003.

Homeland Security Presidential Directive 8, *National Preparedness*, December 17, 2003.

Homeland Security Presidential Directive 8, Annex I, *National Planning*, February 2008.

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Appendix B: List of Acronyms and Glossary

List of Acronyms

AAR	After-Action Report
CBRNE	Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive
CERT	Community Emergency Response Team
CIKR	Critical Infrastructure and Key Resources
COG	Continuity of Government
CONOPS	Concept of Operations
COOP	Continuity of Operations
CPG	Comprehensive Preparedness Guide
DAP	Disaster Assistance Policy
DHS	U.S. Department of Homeland Security
EAS	Emergency Alert System
EMS	Emergency Medical Services
EOC	Emergency Operations Center
EOP	Emergency Operations Plan
ESF	Emergency Support Function
FEMA	Federal Emergency Management Agency
FOG	Field Operations Guide
HAZMAT	Hazardous Material(s)
HAZUS-MH	Hazards U.S. Multi-Hazard
ICS	Incident Command System
JFO	Joint Field Office
LEPC	Local Emergency Planning Committee
MAA	Mutual Aid Agreement
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NIMS	National Incident Management System
NRF	National Response Framework
P.L.	Public Law
SOG	Standard Operating Guideline
SOP	Standard Operating Procedure
U.S.C.	United States Code

Glossary

Access and Functional Needs

Those actions, services, accommodations, and programmatic, architectural, and communication modifications that a covered entity must undertake or provide to afford individuals with disabilities a full and equal opportunity to use and enjoy programs, services, activities, goods, facilities, privileges, advantages, and accommodations in the most integrated setting. These actions are in light of the exigent

circumstances of the emergency and the legal obligation to undertake advance planning and prepare to meet the disability-related needs of individuals who have disabilities as defined by the Americans with Disabilities Act Amendments Act of 2008, P.L. 110-325, and those associated with them.

Access and functional needs may include modifications to programs, policies, procedures, architecture, equipment, services, supplies, and communication methods. Examples of "access and functional needs" services may include a reasonable modification of a policy, practice, or procedure or the provision of auxiliary aids and services to achieve effective communication, including but not limited to:

- An exception for service animals in an emergency shelter where there is a no-pets policy
- The provision of way-finding assistance to someone who is blind to orient to new surroundings
- The transferring and provision of toileting assistance to an individual with a mobility disability
- The provision of an interpreter to someone who is deaf and seeks to fill out paperwork for public benefits.

American Red Cross

A nongovernmental humanitarian organization led by volunteers that provides relief to victims of disasters and helps people prevent, prepare for, respond to, and recover from emergencies. The American Red Cross accomplishes this through services that are consistent with its Congressional Charter and the Principles of the International Red Cross Movement.

Attack

A hostile action taken against the United States by foreign forces or terrorists, resulting in the destruction of or damage to military targets, injury or death to the civilian population, or damage to or destruction of public and private property.

Capabilities-based Planning

Planning, under uncertainty, to provide capabilities suitable for a wide range of threats and hazards while working within an economic framework that necessitates prioritization and choice. Capabilities-based planning addresses uncertainty by analyzing a wide range of scenarios to identify required capabilities.

Checklist

Written (or computerized) enumeration of actions to be taken by an individual or organization meant to aid memory rather than provide detailed instruction.

Citizen Corps

A community-based program, administered by FEMA, which includes Citizen Corps councils and other programs that bring government and nongovernmental entities together to conduct all-hazards emergency preparedness and operations. Through its network of state, territorial, tribal and local councils, Citizen Corps increases community preparedness and response capabilities through collaborative planning, public education, outreach, training, and volunteer service. Additionally, programs like the Community Emergency Response Team Program train members of the public in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations.

Community

Community has more than one definition. Each use depends on the context:

- A political or geographical entity that has the authority to adopt and enforce laws and ordinances for the area under its jurisdiction. In most cases, the community is an incorporated town, city, township, village, or unincorporated area of a county. However, each state defines its own political subdivisions and forms of government.
- A group of individuals (community of interest) who have a religion, a lifestyle, activity interests, an interest in volunteer organizations, or other characteristics in common. These communities may belong to more than one geographic community. Examples include: faith-based and social organizations; nongovernmental and volunteer organizations; private service providers; critical infrastructure operators; and local and regional corporations.

Consequence

An effect of an incident or occurrence.

Dam

A barrier built across a watercourse for the purpose of impounding, controlling, or diverting the flow of water.

Damage Assessment

The process used to appraise or determine the number of injuries and deaths, damage to public and private property, and status of key facilities and services (e.g., hospitals and other health care facilities, fire and police stations, communications networks, water and sanitation systems, utilities, transportation networks) resulting from a human-caused or natural disaster.

Disability

According to the Americans with Disabilities Act, the term "individual with a disability" refers to "a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is regarded by others as having such an impairment." The term "disability" has the same meaning as that used in the Americans with Disabilities Act Amendments Act of 2008, P.L. 110-325, as incorporated into the Americans with Disabilities Act. See http://www.ada.gov/pubs/ada.htm for the definition and specific changes to the text of the Americans with Disabilities Act. State laws and local ordinances may also include individuals outside the Federal definition.

Disaster

An occurrence of a natural catastrophe, technological accident, or human-caused incident that has resulted in severe property damage, deaths, and/or multiple injuries. As used in this Guide, a "large-scale disaster" is one that exceeds the response capability of the local jurisdiction and requires state, and potentially Federal, involvement. As used in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), a "major disaster" is "any natural catastrophe [...] or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under [the] Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby" (Stafford Act, Sec. 102(2), 42 U.S.C. 5122(2)).

Earthquake

The sudden motion or trembling of the ground produced by abrupt displacement of rock masses, usually within the upper 10 to 20 miles of the earth's surface.

Emergency

Any incident, whether natural or human-caused, that requires responsive action to protect life or property. Under the Stafford Act, an emergency "means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States" (Stafford Act, Sec. 102(1), 42 U.S.C. 5122(1)).

Emergency Assistance

According to the National Response Framework, emergency assistance is "[a]ssistance required by individuals, families, and their communities to ensure that immediate needs beyond the scope of the traditional 'mass care' services provided at the local level are addressed. These services include: support to evacuations (including registration and tracking of evacuees); reunification of families; provision of aid and services to special needs populations; evacuation, sheltering, and other emergency services for household pets and services animals; support to specialized shelters; support to medical shelters; nonconventional shelter management; coordination of donated goods and services; and coordination of voluntary agency assistance."

Emergency Medical Services

Services, including personnel, facilities, and equipment, required to ensure proper medical care for the sick and injured from the time of injury to the time of final disposition (which includes medical disposition within a hospital, temporary medical facility, or special care facility; release from the site; or being declared dead). Further, emergency medical services specifically includes those services immediately required to ensure proper medical care and specialized treatment for patients in a hospital and coordination of related hospital services.

Emergency Operations Center

The physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An Emergency Operations Center may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. Emergency Operations Centers may be organized by major functional disciplines (e.g., fire, law enforcement, medical services), by jurisdiction (e.g., Federal, state, tribal, regional, city, county), or by some combination thereof.

Emergency Operations Plan

The ongoing plan maintained by various jurisdictional levels for responding to a wide variety of potential hazards. It describes how people and property will be protected; details who is responsible for carrying out specific actions; identifies the personnel, equipment, facilities, supplies, and other resources available; and outlines how all actions will be coordinated.

Emergency Support Function

Used by the Federal Government and many state governments as the primary mechanism at the operational level to organize and provide assistance. Emergency Support Functions align categories of resources and provide strategic objectives for their use. Emergency Support Functions use standardized

resource management concepts such as typing, inventorying, and tracking to facilitate the dispatch, deployment, and recovery of resources before, during, and after an incident.

Evacuation

The organized, phased, and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas, and their reception and care in safe areas.

- *A **spontaneous evacuation*** occurs when residents or citizens in the threatened areas observe an incident or receive unofficial word of an actual or perceived threat and, without receiving instructions to do so, elect to evacuate the area. Their movement, means, and direction of travel are unorganized and unsupervised.
- *A **voluntary evacuation*** is a warning to persons within a designated area that a threat to life and property exists or is likely to exist in the immediate future. Individuals issued this type of warning or order are *not required* to evacuate; however, it would be to their advantage to do so.
- *A **mandatory or directed evacuation*** is a warning to persons within the designated area that an imminent threat to life and property exists and individuals *must* evacuate in accordance with the instructions of local officials.

Evacuees

All persons removed or moving from areas threatened or struck by a disaster.

Federal Coordinating Officer

The official appointed by the President to execute Stafford Act authorities, including the commitment of FEMA resources and mission assignments of other Federal departments or agencies. In all cases, the Federal Coordinating Officer represents the FEMA Administrator in the field to discharge all FEMA responsibilities for the response and recovery efforts underway. For Stafford Act incidents, the Federal Coordinating Officer is the primary Federal representative with whom the State Coordinating Officer and other response officials interface to determine the most urgent needs and to set objectives for an effective response in collaboration with the Unified Coordination Group.

Flood

A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, unusual or rapid accumulation or runoff of surface waters, or mudslides/mudflows caused by accumulation of water.

Governor's Authorized Representative

An individual empowered by a Governor to: (1) execute all necessary documents for disaster assistance on behalf of the state, including certification of applications for public assistance; (2) represent the Governor of the impacted state in the Unified Coordination Group, when required; (3) coordinate and supervise the state disaster assistance program to include serving as its grant administrator; and (4) identify, in coordination with the State Coordinating Officer, the state's critical information needs for incorporation into a list of Essential Elements of Information.

Hazard

A natural, technological, or human-caused source or cause of harm or difficulty.

Hazardous Material

Any substance or material that, when involved in an accident and released in sufficient quantities, poses a risk to people's health, safety, and/or property. These substances and materials include explosives, radioactive materials, flammable liquids or solids, combustible liquids or solids, poisons, oxidizers, toxins, and corrosive materials.

Household Pet

According to FEMA Disaster Assistance Policy 9253.19, "[a] domesticated animal, such as a dog, cat, bird, rabbit, rodent, or turtle, that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Household pets do not include reptiles (except turtles), amphibians, fish, insects/arachnids, farm animals (including horses), and animals kept for racing purposes." This definition is used by FEMA to determine assistance that FEMA will reimburse and is the definition used in the production of this Guide. Individual jurisdictions may have different definitions based on other criteria.

Hurricane

A tropical cyclone, formed in the atmosphere over warm ocean areas, in which wind speeds reach 74 miles per hour or more and blow in a large spiral around a relatively calm center or eye. Circulation is counter-clockwise in the Northern Hemisphere and clockwise in the Southern Hemisphere.

Incident

An occurrence or event—natural, technological, or human-caused—that requires a response to protect life, property, or the environment (e.g., major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, tsunamis, war-related disasters, public health and medical emergencies, other occurrences requiring an emergency response).

Incident Command System

A standardized on-scene emergency management construct specifically designed to provide an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. The Incident Command System is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure and designed to aid in the management of resources during incidents. It is used for all kinds of emergencies and is applicable to small, as well as large and complex, incidents. The Incident Command System is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.

Incident Management Assistance Team

A national-based or regional-based team composed of SMEs and incident management professionals, usually composed of personnel from multiple Federal departments and agencies, which provide incident management support during a major incident.

Joint Field Office

The primary Federal incident management field structure. The Joint Field Office is a temporary Federal facility that provides a central location for the coordination of Federal, state, territorial, tribal, and local governments and private sector and nongovernmental organizations with primary responsibility for response and recovery. The Joint Field Office structure is organized, staffed, and managed in a manner consistent with National Incident Management System principles and is led by the Unified Coordination

Group. Although the Joint Field Office uses an Incident Command System structure, the Joint Field Office does not manage on-scene operations. Instead, the Joint Field Office focuses on providing support to on-scene efforts and conducting broader support operations that may extend beyond the incident site.

Joint Information Center

A facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media. Public information officials from all participating agencies should co-locate at the Joint Information Center.

Jurisdiction

Jurisdiction has more than one definition. Each use depends on the context:

- A range or sphere of authority. Public agencies have jurisdiction at an incident related to their legal responsibilities and authority. Jurisdictional authority at an incident can be political or geographical (e.g., city, county, tribal, state, or Federal boundary lines) or functional (e.g., law enforcement, public health).
- A political subdivision (e.g., Federal, state, county, parish, municipality) with the responsibility for ensuring public safety, health, and welfare within its legal authorities and geographic boundaries.

Likelihood

Estimate of the potential for an incident's occurrence.

Limited English Proficiency

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Mass Care

The actions that are taken to protect evacuees and other disaster victims from the effects of the disaster. Activities include mass evacuation, mass sheltering, mass feeding, access and functional needs support, and household pet and service animal coordination.

Mitigation

Activities providing a critical foundation in the effort to reduce the loss of life and property from natural and/or human-caused disasters by avoiding or lessening the impact of a disaster and providing value to the public by creating safer communities. Mitigation seeks to fix the cycle of disaster damage, reconstruction, and repeated damage. These activities or actions, in most cases, will have a long-term sustained effect.

National Incident Management System

A set of principles that provides a systematic, proactive approach guiding government agencies at all levels, nongovernmental organizations, and the private sector to work seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life or property and harm to the environment.

National Response Framework

This document establishes a comprehensive, national, all-hazards approach to domestic incident response. It serves as a guide to enable responders at all levels of government and beyond to provide a unified

national response to a disaster. It defines the key principles, roles, and structures that organize the way U.S. jurisdictions plan and respond.

Nongovernmental Organization

An entity with an association that is based on the interests of its members, individuals, or institutions. It is not created by a government, but it may work cooperatively with government. Such organizations serve a public purpose and are not for private benefit. Examples of nongovernmental organizations include faith-based charity organizations and the American Red Cross.

Planning Assumptions

Parameters that are expected and used as a context, basis, or requirement for the development of response and recovery plans, processes, and procedures. If a planning assumption is not valid for a specific incident's circumstances, the plan may not be adequate to ensure response success. Alternative methods may be needed. For example, if a decontamination capability is based on the planning assumption that the facility is not within the zone of release, this assumption must be verified at the beginning of the response.

Preparedness

Actions that involve a combination of planning, resources, training, exercising, and organizing to build, sustain, and improve operational capabilities. Preparedness is the process of identifying the personnel, training, and equipment needed for a wide range of potential incidents, and developing jurisdiction-specific plans for delivering capabilities when needed for an incident.

Prevention

Actions to avoid an incident or to intervene to stop an incident from occurring. Prevention involves actions to protect lives and property. It involves applying intelligence and other information to a range of activities that may include such countermeasures as deterrence operations; heightened inspections; improved surveillance and security operations; investigations to determine the full nature and source of the threat; public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and, as appropriate, specific law enforcement operations aimed at deterring, preempting, interdicting, or disrupting illegal activity and apprehending potential perpetrators and bringing them to justice.

Protected Group

A group of people qualified for special protection by a law, policy, or similar authority. For example, Title VI of the Civil Rights Act of 1964 protects against discrimination on the grounds of race, color, or national origin.

Protection

Actions to reduce or eliminate a threat to people, property, and the environment. Primarily focused on adversarial incidents, the protection of critical infrastructure and key resources is vital to local jurisdictions, national security, public health and safety, and economic vitality. Protective actions may occur before, during, or after an incident and prevent, minimize, or contain the impact of an incident.

Recovery

The development, coordination, and execution of service and site restoration plans; the reconstitution of government operations and services; individual, private sector, nongovernmental, and public assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of

the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.

Resource Management

A system for identifying available resources at all jurisdictional levels to enable timely, efficient, and unimpeded access to resources needed to prepare for, respond to, or recover from an incident. Resource management under the National Incident Management System includes mutual aid and assistance agreements; the use of special Federal, state, territorial, tribal, and local teams; and resource mobilization protocols.

Response

Immediate actions to save and sustain lives, protect property and the environment, and meet basic human needs. Response also includes the execution of plans and actions to support short-term recovery.

Risk

The potential for an unwanted outcome resulting from an incident or occurrence, as determined by its likelihood and the associated consequences.

Risk Analysis

A systematic examination of the components and characteristics of risk.

Risk Assessment

A product or process that collects information and assigns values to risks for the purpose of informing priorities, developing or comparing courses of action, and informing decision making.

Risk Identification

The process of finding, recognizing, and describing potential risks.

Risk Management

The process of identifying, analyzing, assessing, and communicating risk and accepting, avoiding, transferring, or controlling it to an acceptable level at an acceptable cost.

Scenario

Hypothetical situation composed of a hazard, an entity impacted by that hazard, and associated conditions including consequences when appropriate.

Scenario-based Planning

A planning approach that uses a hazard vulnerability assessment to assess the hazard's impact on an organization on the basis of various threats that the organization could encounter. These threats (e.g., hurricane, terrorist attack) become the basis of the scenario.

Senior Official

The elected or appointed official who, by statute, is charged with implementing and administering laws, ordinances, and regulations for a jurisdiction. He or she may be a mayor, city manager, etc.

Service Animal

Any guide dog, signal dog, or other animal individually trained to assist an individual with a disability. Service animals' jobs include, but are not limited to:

- Guiding individuals with impaired vision
- Alerting individuals with impaired hearing (to intruders or sounds such as a baby's cry, the doorbell, and fire alarms)
- Pulling a wheelchair
- Retrieving dropped items
- Alerting people of impending seizures
- Assisting people who have mobility disabilities with balance or stability.

Standard Operating Procedure/Guideline

A reference document or operations manual that provides the purpose, authorities, duration, and details for the preferred method of performing a single function or a number of interrelated functions in a uniform manner.

State Coordinating Officer

The individual appointed by the Governor to coordinate state disaster assistance efforts with those of the Federal Government. The State Coordinating Officer plays a critical role in managing the state response and recovery operations following Stafford Act declarations. The Governor of the affected state appoints the State Coordinating Officer, and lines of authority flow from the Governor to the State Coordinating Officer, following the state's policies and laws.

Storm Surge

A dome of sea water created by strong winds and low barometric pressure in a hurricane that causes severe coastal flooding as the hurricane strikes land.

Terrorism

Activity that involves an act that is dangerous to human life or potentially destructive of critical infrastructure or key resources; is a violation of the criminal laws of the United States or of any state or other subdivision of the United States; and appears to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping.

Tornado

A local atmospheric storm, generally of short duration, formed by winds rotating at very high speeds, usually in a counter-clockwise direction. The vortex, up to several hundred yards wide, is visible to the observer as a whirlpool-like column of winds rotating about a hollow cavity or funnel. Winds can be as low as 65 miles per hour, but may reach 300 miles per hour or higher.

Tsunami

Sea waves produced by an undersea earthquake. Such sea waves can reach a significant height resulting in damage or devastation to coastal cities and low-lying coastal areas.

Uncertainty

The degree to which a calculated, estimated, or observed value may deviate from the true value.

Vulnerability

A physical feature or operational attribute that renders an entity open to exploitation or susceptible to a given hazard.

Warning

The alerting of emergency response personnel and the public to the threat of extraordinary danger and the related effects that specific hazards may cause.

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Appendix C: Emergency Operations Plan Development Guide

This appendix provides a pull-out guide that applies the planning process described in Chapter 4 and provides content guidance for various elements of an emergency operations plan (EOP). It includes a list of key planning elements that should be included in the basic plan and its annexes. It is not all-inclusive or intended to prescribe any particular plan format, and it is not meant to indicate that all items are appropriate to every level of government. Statutes may assign authority to perform various functions. A brief reference should be made to these statutes in the plan where applicable.

Steps in the Planning Process

Step 1: Form a Collaborative Planning Team. Planners must ensure that operational planning not only involves the jurisdiction's entire emergency management and homeland security team, but also actively engages the whole community in the planning process. Planning must also be community-based, integrating the needs of the entire community. This includes addressing the critical planning requirements of children, individuals with disabilities, others with access and functional needs, and individuals with limited English proficiency. Using a team or group approach helps organizations define their perception of the role they will play during an operation. Involvement of the private sector is especially critical in this process. Initially, the team should be small, consisting of planners from the organizations that usually participate in emergency or homeland security operations. They form the core for all planning efforts.

Disasters begin and end locally. When the response is over, it is the local community that has to live with the decisions made during the incident. Therefore, communities should have a say in how a disaster response occurs. They should also shoulder responsibility for building their community's resilience and enhancing its recovery before, during, and after a disaster. The community can bring capabilities and resources to an incident that may not exist in the volume needed or at all within the traditional government structure. Engaging the whole community as part of the planning team is critical for resilience. Figure 4.2 provides methods for engaging the community in the planning process.

Step 2: Understand the Situation. Planners should begin the problem-solving process by conducting research and analysis on the jurisdiction's threats, hazards, and resources. Giving consideration to the potential risks a jurisdiction may face brings specificity to the planning process. If risks are viewed as problems and operational plans are the solution, then hazard and threat identification and analysis are key steps in the planning process.

The first step of research focuses on gathering information about the jurisdiction's planning framework, potential risks, resource base, demographics, household pet and service animal population, and geographic characteristics that could affect emergency operations. There are many existing resources available to support planners in this step, including threat assessments, mitigation plans, local organizations (e.g., businesses, nongovernmental entities, utilities), Federal and state analyses that include data about historical incidents, and registries for population demographics.

The second step of the threat and hazard identification process is to organize the information into a format that is usable by the planning team. One effective method for organizing hazard or threat information is to use a matrix based on dimensions used during the risk analysis process, including the (1) probability or frequency of occurrence; (2) magnitude (i.e., the physical force associated with the hazard or threat); (3) intensity/severity (i.e., the impact or damage expected); (4) time available to warn; (5) location of the incident (i.e., an area of interest or a specific or indeterminate site or facility); (6) potential size of the affected area; (7) speed of onset (i.e., how fast the hazard or threat can impact the public); (8) duration (i.e., how long the hazard or threat will be active); and (9) cascading effects.

The risk assessment is the basis for EOP development. The assessment helps a planning team decide what hazards or threats merit special attention, what actions must be planned for, and what resources are likely to be needed. In order to set planning priorities, the planning team must consider the frequency of the hazard or threat and the likelihood or potential severity of its consequences in order to develop a single indicator of the risk to the jurisdiction. This can be done using a mathematical approach, qualitative ratings, or index numbers. While a mathematical approach is possible, it may be easier to manipulate qualitative ratings (e.g., high, medium, low) or index numbers (e.g., reducing quantitative information to a 1-to-3, 1-to-5, or 1-to-10 scale based on defined thresholds) for different categories of information used in the ranking scheme. Some approaches involve the consideration of only two categories—frequency and consequences—and treat them as equally important. In other approaches, potential consequences receive more weight than frequency. While it is important to have a sense of the magnitude involved (i.e., whether in regard to the single indicator used to rank hazards or to estimate the numbers of people affected), these indicators are static. Some hazards or threats may pose a limited risk to the community; therefore, additional analysis is not necessary.

Step 3: Determine Goals and Objectives. Using information from the hazard profile developed as part of the analysis process, the planning team should think about how the hazard or threat would evolve in the jurisdiction and what defines a successful operation. During this process, the planning team identifies requirements that determine actions and resources, including the following:

- Agent requirements are caused by the nature of the hazard or threat.
- Response requirements are caused by actions taken in response to an incident-generated problem.
- Constraint/restraint demands are caused by things planners must do, are prohibited from doing, and/or are not able to do.

Once the planning team identifies requirements, they restate them as priorities, goals, and objectives. ***Priorities*** indicate a desired end-state for the operation. A critical source for these priorities is the vision and desired end-state communicated by senior officials. ***Goals*** are broad, general statements that indicate the intended methods for achieving the mission and priorities, specifying desired results. ***Objectives*** are more specific and identifiable actions carried out during the operation. Clear definition of goals and objectives enables unity of effort and consistency of purpose

Example: Relationships among the Mission, Operational Priorities, Goals, and Objectives

Plan Mission: Effectively coordinate and direct available resources to protect the public and property from hazards or threats.

Operational Priority: Protect the public from hurricane weather and storm surge.

Goal: Complete evacuation before arrival of tropical storm winds.
Desired result: all self- and assisted evacuees are safely outside of the expected impact area prior to impact.

Objective: Complete tourist evacuation 72 hours before arrival of tropical storm winds.
Desired result: tourist segment of public protected prior to hazard onset, allowing resources to be redirected to accomplishing other objectives in support of this goal or other goals.

among the multiple groups and activities involved in executing the plan.

Step 4: Plan Development. First, develop and analyze courses of action. This is a process of generating and comparing possible solutions for achieving the goals and objectives identified in Step 3. Use a process that combines aspects of scenario-based, functional, and capabilities-based planning. Depict how the operation unfolds by using a visual process that shows relationships among the incident's actions, decision points, and participant activities that allow the planner to anticipate challenges. Typically, such a process follows these steps:

- ***Establish the timeline.*** Planners typically use the speed of an incident's onset to establish the timeline. Placement of decision points and response actions on the timeline depicts how soon the different entities enter the plan.
- ***Depict the scenario.*** Planners use the scenario information developed in Step 3 and place the incident information on the timeline.
- ***Identify and depict decision points.*** Decision points indicate the place in time, as incidents unfold, when leaders anticipate making decisions about a course of action. They indicate where and when decisions are required to provide the best chance of achieving an intermediate objective or response goal (i.e., the desired end-state). They also help planners determine how much time is available or needed to complete a sequence of actions.
- ***Identify and depict operational tasks.*** For each operational task depicted, some basic information is needed.
  - What is the action?
  - Who is responsible for the action?
  - When should the action take place?
  - How long should the action take and how much time is actually available?
  - What has to happen before?
  - What happens after?
  - What resources does the person/entity performing the action need?
- ***Select courses of action.*** Planners must compare the costs and benefits of each proposed course of action against the mission, goals, and objectives. Based on this comparison, planners then select the preferred courses of action to move forward in the planning process. To the extent possible and appropriate, senior officials should approve course of action decisions during plan development.
- ***Identify resources.*** Initially, the planning team identifies resources needed to accomplish operational tasks in an unlimited manner. Once the planning team identifies all the requirements, they begin matching available resources to requirements. The EOP should account for unsolvable resource shortfalls so they are not just "assumed away."
- ***Identify information needs.*** Planners identify a "list" of the information needs for each of the response participants, including the time they need it, to drive decisions and trigger critical actions.
- ***Assess progress.*** This process should be periodically "frozen" so the planning team can:
  - Identify progress made toward the end-state
  - Identify goals and objectives met and new needs or demands
  - Identify "single point failures" (i.e., tasks that, if not completed, would cause the operation to fall apart)

- Check for omissions or gaps
- Check for inconsistencies in organizational relationships.

The planning team should work through this process by using tools that help members visualize operational flow, such as a white board, "sticky note" chart, or some type of project management or planning software.

Step 5: Plan Preparation, Review, and Approval. This step turns the results of the course of action development performed in Step 4 into an EOP. The planning team develops a rough draft of the basic plan or annexes. As the planning team works through successive drafts, they add necessary tables, charts, and other graphics. The team prepares a final draft and circulates it for comment to organizations that have responsibilities for implementing the plan. The written plan should be checked for its conformity to applicable regulatory requirements and the standards of Federal or state agencies (as appropriate) and for its usefulness in practice. Once validated, the planning team presents the plan to the appropriate officials for signature and promulgation. The promulgation process should be based on specific statute, law, or ordinance. Once approved, the planner should arrange to distribute the plan to stakeholders who have roles in implementing the plan.

Step 6: Plan Implementation and Maintenance. Evaluating the effectiveness of plans involves a combination of training events, exercises, and real-world incidents to determine whether the goals, objectives, decisions, actions, and timing outlined in the plan led to a successful response. Commonly used criteria can help decision makers determine the effectiveness and efficiency of plans. These measures include adequacy, feasibility, acceptability, completeness, and compliance with guidance or doctrine. When evaluating the plan, planners should ask the following questions:

- Did an action, process, decision, or the operational timing identified in the plan make the situation worse or better?
- Were new alternate courses of action identified?
- Were the requirements of children, individuals with disabilities, and others with access and functional needs fully addressed and integrated into all appropriate aspects of the plan?
- What aspects of the action, process, decision, or operational timing make it something to keep in the plan?
- What aspects of the action, process, decision, or operational timing make it something to avoid or remove from the plan?
- What specific changes to plans and procedures, personnel, organizational structures, leadership or management processes, facilities, or equipment can improve operational performance?

Planning teams should establish a recurring process for reviewing and revising the plan. For example, each component of the plan is reviewed and revised at a minimum of once every two years. Teams should also consider reviewing and updating the plan after the following events:

- A change in operational resources
- A formal update of planning guidance or standards
- A change in elected or appointed officials
- A plan activation or major exercise

- A change in the jurisdiction's demographics or hazard or threat profile
- The enactment of new or amended laws or ordinances.

Figure 4.1 (page 4-1) depicts the process for planners to use when moving through the planning steps.

Basic Plan Content Guide

The basic plan provides an overview of the jurisdiction's emergency management/response program and its ability to prepare for, respond to, and recover from disasters/emergencies.

Promulgation Document/Signature Page

This document/page is a signed statement formally recognizing and adopting the plan as the jurisdiction's all-hazards EOP.

- Include a Promulgation Statement signed by the jurisdiction's senior elected or appointed official(s). (Note: This statement must be updated each time a new senior elected or appointed official takes office.)

Approval and Implementation

This page introduces the plan, outlines its applicability, and indicates that it supersedes all previous plans.

- Include a delegation of authority for specific modifications that can be made to the plan and by whom they can be made without the senior official's signature.
- Include a date and ensure that the page is signed by the senior official(s) (e.g., governor, tribal leader[s], mayor, county judge, commissioner[s]).

Record of Changes

The record of changes, usually in table format, contains, at a minimum, a change number, the date of the change, the name of the person who made the change, and a summary of the change. Other relevant information could be considered.

Record of Distribution

The record of distribution is usually a table with fields that indicate the title and the name of the person receiving the plan, the agency to which the receiver belongs, the date of delivery, and the number of copies delivered.

Table of Contents

This item outlines the plan's format, key sections, attachments, charts, etc. and identifies the major sections/chapters and/or key elements within the EOP.

Purpose, Scope, Situation, Assumptions

This section explains the plan's intent, who is involved, and why it was developed.

Purpose

This section describes the purpose for developing and maintaining an EOP (e.g., coordinate local agency SOPs/SOGs, define disaster-specific procedures, outline roles and limitations).

Scope

This section describes at what times or under what conditions this plan would be activated (e.g., major county disaster versus minor local emergency; major state-wide disaster; terrorist attack within the local community, county, or state).

Situation Overview

This section provides an overview of the steps taken by the jurisdiction to prepare for disasters.

Hazard and Threat Analysis Summary. This section summarizes the major findings identified from a completed hazard and threat analysis of the hazards or threats likely to impact the jurisdiction and how the jurisdiction expects to receive (or provide) assistance within its regional response structures. Note: The hazard and threat analysis information can be presented as a tab to the EOP or maintained as a part of the local mitigation plan.[11]

- Summarize/identify the hazards that pose a unique risk to the jurisdiction and would result in the need to activate this plan (e.g., threatened or actual natural disasters, acts of terrorism, other human-caused disasters).
- Summarize/identify the probable high-risk areas (i.e., population, infrastructure, and environmental) that are likely to be impacted by the defined hazards (e.g., hospitals, congregate care facilities, wildlife refuges, types/numbers of homes/businesses in floodplains, areas around chemical facilities).
- Summarize/identify the defined risks that have occurred and the likelihood they will continue to occur within the jurisdiction (e.g., historical frequency, probable future risk, national security threat assessments).
- Describe how the intelligence from threat analysis via state/local fusion centers, joint terrorism task forces, national intelligence organizations, etc. has been incorporated into the jurisdiction's hazard and threat analysis.
- Describe how critical infrastructure and key resources (CIKR) protection activities have been incorporated into the vulnerability and impact analysis.
- Describe how agricultural security; food supply security; cyber security; chemical, biological, radiological, nuclear, and high-yield explosive (CBRNE) incidents; and pandemics (those located/originating in the jurisdiction, as well as a nonlocal, nationwide, or global incident) have been assessed and incorporated.
- Describe the assumptions made and the methods used to complete the jurisdiction's hazard and threat analysis, including what tools or methodologies were used to complete the analysis (e.g., a state's hazard analysis and risk assessment manual, mitigation plan guidance, vulnerability assessment criteria, consequence analysis criteria).
- Include maps that show the high-risk areas that are likely to be impacted by the identified risks (e.g., residential/commercial areas within defined floodplains, earthquake fault zones, vulnerable zones for hazardous materials [HAZMAT] facilities/routes, areas within ingestion zones for nuclear power plants, critical infrastructure).
- Describe/identify the risks that could originate in a neighboring jurisdiction and could create hazardous conditions in this jurisdiction (e.g., critical infrastructure loss, watershed runoff, chemical incident, riot/terrorist act).

[11] A *hazard* is defined as a natural, technological, or human-caused source or cause of harm or difficulty. *Risk* is defined as the potential for an unwanted outcome resulting from an incident or occurrence, as determined by its likelihood and the associated consequences.

- Describe/identify the unique time variables that may influence the hazard and threat analysis and preplanning for the emergency (e.g., rush hours, annual festivals, seasonal events, how quickly the incident occurs, the time of day that the incident occurs).

Capability Assessment. Describe the process used by the jurisdiction to determine its capabilities and limits in order to prepare for and respond to the defined hazards. Note: The jurisdiction may wish to address this topic as part of the hazard-specific annexes. This decision would allow the jurisdiction to address the unique readiness issues and limitations for each specific hazard. In this case, this section should provide an overview of the jurisdiction's abilities and then refer the reader to the hazard-specific annexes for more detailed information.

- Summarize the jurisdiction's prevention, protection, response, and recovery capabilities involving the defined hazards.
- Describe the jurisdiction's limitations on the basis of training, equipment, or personnel.

Planning Assumptions

This section identifies what the planning team assumes to be facts for planning purposes in order to make it possible to execute the EOP.

Concept of Operations

This CONOPS section explains in broad terms the decision maker's or leader's intent with regard to an operation. This section is designed to give an overall picture of how the response organization accomplishes a mission or set of objectives in order to reach a desired end-state. Ideally it offers clear methodology to realize the goals and objectives to execute the plan. This may include a brief discussion of the activation levels identified by the jurisdiction for its operations center. It may touch on direction and control, alert and warning, and continuity matters that may be dealt with more fully in annexes.

Plans must comply with the Americans with Disabilities Act, which requires that emergency policies be modified to enable people with disabilities to evacuate, use emergency transportation, stay in shelters, and participate in all emergency and disaster-related programs together with their service animals.

- Describe who has the authority to activate the plan (e.g., emergency management agency, senior official, state official, fire/police chief).
- Describe the process, templates, and individuals involved in issuing a declaration of emergency for a given hazard and how the declaration will be coordinated with neighboring jurisdictions and the state.
- Describe how legal questions/issues are resolved as a result of preparedness, response, or recovery actions, including what liability protection is available to responders.
- Describe the process by which the emergency management agency coordinates with all appropriate agencies, boards, or divisions within the jurisdiction.
- Describe how plans take into account the essential needs of children.
- Describe how plans take into account the physical, programmatic, and communications needs of individuals with disabilities and others with access and functional needs.
- Describe how plans take into account the essential needs of household pets and service animals.
- Identify other response/support agency plans that directly support the implementation of this plan (e.g., hospital, school emergency, facility plans).

Organization and Assignment of Responsibilities

This section provides an overview of the key functions that state or local agencies will accomplish during an emergency, including the roles that Federal, state, territorial, tribal, local, regional, and private sector agencies will take to support local operations.

- Identify/outline the responsibilities assigned to each organization that has a mission assignment defined in the plan, including (but not limited to) the following:
  - Local senior elected or appointed officials (e.g., governor, mayor, commissioner, administrative judge, council, executive director)
  - Local departments and agencies (e.g., fire, law enforcement, emergency medical services [EMS], public health, emergency management, social services, animal control)
  - State agencies most often and/or likely to be used to support local operations (e.g., Department of Transportation, State Police/Highway Patrol, Department of Agriculture, Department of Natural Resources, Environmental Protection/Quality, Emergency Management, Homeland Security, Department of Health/Public Health, National Guard)
  - Regional organizations or groups most often and/or likely to be used to support local operations
  - Federal agencies most often and/or likely to be used to support local operations (e.g., FEMA, U.S. Coast Guard, U.S. Department of Justice, Federal Bureau of Investigation, Federal Aviation Administration, National Transportation Safety Board, U.S. Department of Defense, U.S. Department of Transportation, U.S. Department of Agriculture)
  - Government-sponsored volunteer resources (e.g., Community Emergency Response Teams, Fire Corps and/or Medical Reserve Corps, Volunteers in Police Service, Auxiliary Police)
  - Private sector and voluntary organizations (e.g., organizations that assist with sheltering, feeding, services for persons with disabilities, animal response, social services, health-related needs, community and faith-based organizations, animal welfare and/or humane organizations, independent living centers, disability advocacy groups, business and industry participation).
- Describe how prevention roles and responsibilities will be addressed, including linkages with fusion centers where applicable.
- Describe how roles and responsibilities for CIKR protection and restoration are managed within the jurisdiction.
- Describe how roles and responsibilities will be determined for unaffiliated volunteers and how to incorporate these individuals into the emergency operation.
- Describe/identify what mutual aid agreements (MAA) are in place for the quick activation and sharing of resources during an emergency. Examples of agreements that may exist include the following:
  - Agreements between response groups (e.g., fire, police, EMS)
  - Agreements for additional resources/assistance between neighboring jurisdictions' response forces (e.g., fire, police, EMS)
  - Agreements for providing and receiving additional resources through the Emergency Management Assistance Compact
  - Agreements for alert and notification and dissemination of emergency public information
  - Resource agreements (e.g., outside assistance, personnel, equipment)

  - Agreements between medical facilities inside and outside the jurisdiction (e.g., for using facilities, accepting patients)
  - Agreements between water and wastewater utilities inside and outside the jurisdiction
  - Evacuation agreements (e.g., use of buildings, restaurants, and homes as shelters/lodging; relocation centers; transportation support), including agreements between jurisdictions for the acceptance of evacuees.
- Describe how the jurisdiction maintains a current list of available NIMS typed resources and credentialed personnel.
- Describe how all tasked organizations maintain current notification rosters, SOPs/SOGs, and checklists to carry out their assigned tasks.
- Provide a matrix that summarizes which tasked organizations have the primary lead versus a secondary support role for each defined response function.
- Describe the jurisdiction's policies regarding public safety enforcement actions required to maintain the public order during a crisis response, including teams of enforcement officers needed to handle persons who are disrupting the public order, violating laws, requiring quarantine, etc.

Direction, Control, and Coordination

This section describes the framework for all direction, control, and coordination activities.

- Identify who has tactical and operational control of response assets.
- Discuss multijurisdictional coordination systems and processes used during an emergency.

Information Collection, Analysis, and Dissemination

This section describes the required critical or essential information common to all operations identified during the planning process.

- Identify intelligence position (e.g., fusion center liaison) requirements for the emergency operations center's (EOC) Planning Section.
- Describe plans for coordination between the Planning Section and the jurisdiction's fusion center.
- Describe information dissemination methods (e.g., verbal, electronic, graphics) and protocols.
- Describe critical information needs and collection priorities.
- Describe long-term information collection, analysis, and dissemination strategies.
- Describe collaboration with the general public, to include sector-specific watch programs.

Communications

This section describes the communication and coordination protocols used between response organizations during an incident.

- Describe the framework for delivering communications support and how the jurisdiction's communications integrate into the regional or national disaster communications network.
- Identify and summarize separate interoperable communications plans.

Administration, Finance, and Logistics

Administration

This section describes administrative protocols used during an emergency operation.

Documentation is an administrative process used by a jurisdiction to document the response to and recovery from a disaster. Note: This information can also be discussed for each emergency response function or for the specific hazards.

- Describe the process and agencies used to document the actions taken during and after the emergency (e.g., incident and damage assessment, incident command logs, cost recovery).
- Describe/summarize the reasons for documenting the actions taken during both the response and recovery phases of the disaster (e.g., create historical records, recover costs, address insurance needs, develop mitigation strategies).
- Include copies of the reports that are required (e.g., cost recovery, damage assessment, incident critique, historical record).
- Describe the agencies and methods used to create a permanent historical record of the incident (after-action report) and include information identifying the actions taken, resources expended, economic and human impacts, and lessons learned as a result of the disaster.

The ***after-action report (AAR)*** results from an administrative process used by the jurisdiction to review and discuss the response in order to identify strengths and weaknesses in the emergency management and response program. The AAR should:

- Describe the reasons and need to conduct an AAR (e.g., review actions taken, identify equipment shortcomings, improve operational readiness, highlight strengths/initiatives)
- Describe the methods and agencies used to organize and conduct a review of the disaster, including how recommendations are documented to improve local readiness (e.g., change plans/procedures, acquire new or replace outdated resources, retrain personnel)
- Describe the links and connections between the processes used to critique the response to an emergency/disaster and the processes used to document recommendations for the jurisdiction's exercise program
- Describe how the jurisdiction ensures that the deficiencies and recommendations identified in the AAR are corrected/completed.

Finance

This section describes finance protocols used to recover the costs incurred during an emergency operation.

- Describe/identify the various programs that allow local political jurisdictions and their response/support agencies to recover their costs (e.g., Small Business Administration, Public Assistance Program).
- Identify and describe the actions that will be taken to document the costs incurred during response and recovery operations (e.g., personnel overtime, equipment used/expended, contracts initiated).
- Describe/identify the programs and how the jurisdiction assists the general public to recover their costs and begin rebuilding (e.g., Small Business Administration, unemployment, worker's compensation).

- Describe the methods used to educate responders and local officials about the cost recovery process.
- Describe the impact and role that insurance has in recovering costs (e.g., self-insured, participation in the National Flood Insurance Program, homeowner policies).
- Describe the methods of pre- and post-declaration funding for the jurisdiction's household pets and service animals preparedness and emergency response program, including how to capture eligible costs for reimbursement by the Public Assistance Program, eligible donations for volunteer labor and resources, and eligible donations for mutual aid resources (as defined in Disaster Assistance Policy [DAP] 9523.19).

Logistics

This section describes the logistics and resource management mechanisms used to identify and acquire resources in advance of and during emergency operations, especially to overcome gaps possibly identified in a capability assessment.

- Describe/identify the methods and agencies involved in using the existing risk analysis and capability assessment to identify what resources are needed for a response to a defined hazard, including using past incident critiques to identify/procure additional resources.
- Describe/identify the steps taken to overcome the jurisdiction's identified resource shortfalls, including identifying the resources that are only available outside the jurisdiction (e.g., HAZMAT, water rescue, search and rescue teams, CBRNE) and the process to request those resources.
- Provide a brief summary statement about specialized equipment, facilities, personnel, and emergency response organizations currently available to respond to the defined hazards. Note: A tab to the plan or a separate resource manual should be used to list the types of resources available, amounts on hand, locations maintained, and any restrictions on use.
- Provide information about specialized equipment, facilities, personnel, and emergency response organizations currently available to support children, individuals with disabilities, and others with access and functional needs.
- Describe the process used to identify private agencies/contractors that will support resource management issues (e.g., waste haulers, spill contractors, landfill operators). Identify existing memorandums of agreement (MOA)/memorandums of understanding (MOU) and contingency contracts with these organizations.

Plan Development and Maintenance

This section describes the process used to regularly review and update the EOP.

- Describe how this plan was coordinated with the EOPs from adjoining/intra-state regional jurisdictions to include local political subdivisions that develop their own EOPs in accordance with state statute.
- Describe the process used to review and revise the plan each year or—if changes in the jurisdiction warrant (e.g., changes in administration or procedures, newly added resources/training, revised phone contacts or numbers)—more often.
- Describe the responsibility of each organization/agency (governmental, nongovernmental, and private sector) to review and submit changes to its respective portion(s) of the plan.
- Identify/summarize to whom the plan is distributed, including whether it is shared with other jurisdictions. Include a plan distribution list. Note: This list can be included as a tab to the plan.
- Describe/identify how or where the plan is made available to the public.

- Summarize the process used to submit the plan for review, coordination, and/or evaluation by other jurisdictions/organizations.
- Include a page to document when the changes are received and entered into the plan.

Authorities and References

This section provides the legal basis for emergency operations and activities.

- Identify/describe the Federal, state, and local laws that specifically apply to the development and implementation of this plan, including (but not limited to) the following:
  - Local and regional ordinances and statutes
  - State laws or revised code sections that apply to emergency management and homeland security
  - State administrative code sections that define roles, responsibilities, and operational procedures
  - State Attorney General opinions
  - Federal laws, regulations, and standards (e.g., Stafford Act, FEMA Policy, Patriot Act, Americans with Disabilities Act).
- Identify/describe the reference manuals used to develop the plan and/or help prepare for and respond to disasters or emergencies, including (but not limited to) the following:
  - General planning tools
  - Technical references
  - Computer software.
- Identify/define the words, phrases, acronyms, and abbreviations that have special meaning with regard to emergency management and are used repeatedly in the plan.

Functional Annexes Content Guide

These annexes contain detailed descriptions of the methods that government agencies and departments follow for critical operational functions during emergency operations. Functional annexes support the EOP as they do hazard-specific annexes. There are core functional support activities that should be incorporated, and specific functional support activities that support incident response. The essence of these support functions should be incorporated into plans, rather than be stand-alone. The checklists in this section can be used for either functional annexes or emergency support function annexes.

Transportation (ESF #1)

- Describe/identify the process for monitoring and reporting the status of, and damage to, the transportation system and infrastructure as a result of an incident.
- Describe alternative transportation solutions that can be implemented when systems or infrastructure are damaged, unavailable, or overwhelmed.
- Describe the methods by which appropriate aviation, maritime, surface, railroad, and pipeline incident management measures will be implemented.
- Describe the method of coordinating the restoration and recovery of the transportation systems and infrastructure.

Communications (ESF #2)

- Identify and describe the actions that will be taken to manage communications between the on-scene personnel/agencies (e.g., radio frequencies/tactical channels, cell phones, data links, command post liaisons, communications vehicle/van) in order to establish and maintain a common operating picture of the incident.
- Identify and describe the actions that will be taken to identify and overcome communications shortfalls (e.g., personnel with incompatible equipment) with the use of alternative methods (e.g., Amateur Radio Emergency Services/Radio Amateur Civil Emergency Service at the command post/off-site locations, CB radios).
- Identify and describe the actions that will be taken to manage communications between the on-scene and off-site personnel/agencies (e.g., shelters, hospitals, emergency management agency).
- Identify and describe the actions that will be taken by 911/dispatch centers to support/coordinate communications for the on-scene personnel/agencies, including alternate methods of service if 911/dispatch is out of operation (e.g., resource mobilization, documentation, backup).
- Describe the arrangements that exist to protect emergency circuits with telecommunications service priority for prompt restoration/provisioning.
- Describe how communications are made accessible to individuals with communication disabilities working in emergency operations, in accordance with the Americans with Disabilities Act.
- Identify and describe the actions that will be taken by an EOC to support and coordinate communications between the on- and off-scene personnel and agencies.
- Describe/identify the interoperable communications plan and compatible frequencies used by agencies during a response (e.g., who can talk to whom, including contiguous jurisdictions and private agencies).
- Identify and describe the actions that will be taken to notify neighboring jurisdictions when an incident occurs.
- Describe how 24-hour communications are provided and maintained.

Public Works and Engineering (ESF #3)/Critical Infrastructure and Key Resources Restoration

- Identify and describe the actions that will be taken to determine qualified contractors offering recovery/restoration services.
- Identify and describe the actions that will be taken to coordinate credentialing protocols so personnel have access to critical sites following an incident.
- Identify and describe the actions that will be taken to identify, prioritize, and coordinate the work to repair/restore local roads, bridges, and culverts (e.g., along city, county, township, state, interstate, and U.S. routes).
- Identify and describe the actions that will be taken to repair/restore local water and wastewater systems (e.g., water/waste treatment plants, water/sewer lines, public/private wells), including providing temporary water distribution and wastewater collection systems until normal operations resume.

- Identify and describe the actions that will be taken to prioritize and coordinate the repair/restoration of services (e.g., gas, electric, phone), including conducting safety inspections before the general public is allowed to return to the impacted area.
- Identify and describe the actions that will be taken to incorporate and coordinate assistance from Federal, state, and private organizations (e.g., Federal Highway Administration, state building inspectors/contractors, state/local historical preservation office, private contractors).
- Describe/identify the likely types of energy and utility problems that will be created as a result of the emergency (e.g., downed power lines, wastewater discharges, ruptured underground storage tanks).
- Identify and describe the actions that will be taken to identify, prioritize, and coordinate energy and utility problems that will result from the disaster (e.g., shut off gas/electricity to flooded areas, restore critical systems, control underground water/gas main breaks).
- Identify and describe the actions that will be taken to determine, prioritize, and coordinate the removal of debris from roadways to ensure access for local responders (e.g., snow/debris removal, clearance of debris/ice from streams), including coordinating road closures and establishing alternate routes of access.
- Identify and describe the actions that will be taken to protect affected populations during a disaster when there are periods of extreme temperature and/or shortages of energy, including how the jurisdiction coordinates with energy-providing companies during outages.
- Describe the methods by which the reestablishment of critical human services for children and their families, as well as individuals with disabilities and others with access and functional needs, will be accomplished.

Damage Assessment

- Identify and describe the actions that will be taken to conduct and coordinate damage assessments on private property (e.g., home owners, businesses, renters).
- Identify and describe the actions that will be taken to conduct and coordinate damage assessments on public property (e.g., government, private, not-for-profit).
- Identify and describe the actions that will be taken to collect, organize, and report damage information to other county, state, or Federal operations centers within the first 12 to 36 hours of the disaster/emergency.
- Identify and describe the actions that will be taken to request supplemental state/Federal assistance through the state emergency management agency.
- Include copies of the damage assessment forms used locally (e.g., state-adopted or state-recommended emergency management agency's damage and needs assessment form or a county equivalent). Note: These may be attached as a tab to the plan.

Debris Management

Note: Planners should see if their state has developed specific planning guidance on how to develop a debris management program and subsequent plans.

- Identify and describe the actions that will be taken to coordinate the debris collection and removal process (e.g., gather and recycle materials, establish temporary storage sites, sort/haul debris).
- Identify and describe the actions that will be taken to communicate debris management instructions to the general public (e.g., separation/sorting of debris, scheduled pickup times, drop-off sites for different materials), including a process for issuing routine updates.

- Identify and describe the actions that will be taken to assess and resolve potential health issues related to the debris removal process (e.g., mosquito/fly infestation, hazardous and infectious wastes).
- Identify critical locations (e.g., water and wastewater facilities) that need to be cleared of debris immediately to provide effective emergency services.
- Identify and describe the actions that will be taken to inspect and arrange for the inspection and subsequent disposal of contaminated food supplies (e.g., from restaurants, grocery stores).
- Identify the agencies likely to be used to provide technical assistance on the debris removal process (e.g., state environmental protection agency, state department of health, state department of agriculture, local and surrounding county health departments).
- Identify and describe the actions that will be taken to condemn, demolish, and dispose of structures that present a safety hazard to the public.
- Pre-identify potential trash collection and temporary storage sites, including final landfill sites for specific waste categories (e.g., vegetation, food, dead animals, hazardous and infectious wastes, construction debris, tires/vehicles).

Firefighting (ESF #4)

- Describe the process used to detect and suppress wildland, rural, and urban fires resulting from, or occurring coincidentally with, an incident response.
- Describe existing interstate and intrastate firefighting assistance agreements.
- Describe the methods by which situation and damage assessment information will be transmitted through established channels.

Emergency Management (ESF #5)/Direction, Control, and Coordination

Initial Notification

- Identify and describe the actions that will be taken to receive and document the initial notification that an emergency has occurred.
- Identify and describe the actions that will be taken to coordinate, manage, and disseminate notifications effectively to alert/dispatch response and support agencies (e.g., 911 centers, individual fire/police dispatch offices, call trees) under all hazards and conditions.
- Identify and describe the actions that will be taken to notify and coordinate with adjacent jurisdiction(s) about a local emergency that may pose a risk (e.g., flash flood, chemical release, terrorist act).
- Describe the use of Emergency Condition/Action Levels in the initial notification process (e.g., Snow Emergency Levels 1–3, Chemical Levels 1–3, Crisis Stages 1–4) where defined by statute, authority, or other guidance.

Incident Assessment

- Identify and describe the actions that will be taken to gather essential information and assess the immediate risks posed by the emergency.
- Describe how the initial assessment is disseminated/shared in order to make protective action decisions and establish response priorities, including the need to declare a state of emergency.

- Identify and describe the actions that will be taken to monitor the movement and future effects that may result from the emergency.

Incident Command

- Identify and describe the actions that will be taken to implement the Incident Command System (ICS) and coordinate response operations, including identifying the key positions used to staff the ICS (e.g., Operations, Agency Liaisons, Safety) and using FEMA ICS forms.[12]
- Describe how/where an incident command post will be established (e.g., chief's car, command bus, nearest enclosed structure) and how it will be identified during the emergency (e.g., green light, flag, radio call).
- Describe the process used to coordinate activities between the incident command post and an activated EOC, including how/when an Incident Commander can request the activation of an EOC.
- Identify and describe the actions that will be taken to coordinate direct communications between the on-scene responders, as well as with the off-scene agencies that have a response role (e.g., hospital, American Red Cross).
- Describe the process the Incident Commander will use to secure additional resources/support when local assets are exhausted or become limited, including planned state, Federal, and private assets.
- Describe the process the Incident Commander will use to coordinate and integrate the unplanned arrival of individuals and volunteer groups into the response system and to clarify their limits on liability protection.

Emergency Operations Center

Note: EOC functions may be addressed in an SOP/SOG. If a separate SOP/SOG is used, it should be identified in the EOP.

- Describe the purpose and functions of an EOC during an emergency or declared disaster.
- Describe/identify under what conditions the jurisdiction will activate a primary and/or alternate EOC and who makes this determination.
- Identify the primary and alternate sites that will likely be used as an EOC for the jurisdiction (e.g., city hall, fire department, emergency management agency, dedicated facility).
- Describe the process used to activate the primary or alternate EOC (e.g., staff notification, equipment setup), including the process for moving from one EOC to another.
- Identify who is in charge of the EOC (e.g., emergency management agency director, senior official, fire/police chief, department/agency director), and describe how operations will be managed in the EOC.
- Describe/identify the EOC staff and equipment requirements necessary for an EOC (e.g., first response liaisons, elected or appointed officials, support agencies, communications, administrative support).
- Identify and describe the actions that will be taken to gather and share pertinent information between the scene, outside agencies, and the EOC (e.g., damage observations, response priorities, resource needs), including sharing information between neighboring and state EOCs.

[12] More information may be found at http://www.training.fema.gov/EMIWeb/IS/ICSResource/index.htm.

- Describe the EOC's ability to manage an emergency response that lasts longer than 24 hours (e.g., staffing needs, shift changes, resource needs, feeding, alternate power).
- Identify and describe the actions that will be taken to transition from response to recovery operations.
- Describe the process used to deactivate/close the EOC (e.g., staff releases, equipment cleanup, documentation).
- Identify the lead official and at least two alternates responsible for staffing each key position at the primary EOC, as well as the alternates (if different) to be consistent with NIMS.
- Identify and describe the actions that will be taken to routinely brief senior officials not present in the EOC on the emergency situation (e.g., governor, commissioner, administrative judge, mayor, city council, trustees) and to authorize emergency actions (e.g., declare an emergency, request state and Federal assistance, purchase resources).
- Identify and describe the actions that will be taken to manage public information.
- Provide a diagram of the primary and alternate EOCs (e.g., locations, floor plans, displays) and identify and describe the critical communications equipment available/needed (e.g., phone numbers, radio frequencies, faxes).
- Provide copies of specific forms or logs to be used by EOC personnel.

Mass Care, Emergency Assistance, Housing, and Human Services (ESF #6)

- Identify and describe the actions that will be taken to identify, open, and staff emergency shelters, including temporarily using reception centers while waiting for shelters to open officially.
- Describe the agencies and methods used to provide essential care (e.g., food, water) to promote the well-being of evacuees throughout the entire process (including household pets and service animals).
- Describe the partnership between the jurisdiction's emergency management agency, the animal control authority, the mass care provider(s), and the owner of each proposed congregate household pet sheltering facility.
- Describe the agencies and methods used to provide care and support for institutionalized populations (e.g., long-term care and assisted living facilities, group homes), individuals with disabilities, and others with access and functional needs (e.g., medical and prescription support, personal assistance services, durable medical equipment, consumable medical supplies, childcare, transportation [including accessible transportation], foreign language interpreters), including their caregivers.
- Describe how the jurisdiction will ensure physical and programmatic accessibility of shelter facilities, effective communication using multiple methods, full access to emergency services, and reasonable modification of programs or policies where needed.
- Identify and describe the actions that will be taken to ensure that the Americans with Disabilities Act Accessibility Guidelines govern shelter site selection and operation.
- Describe the method for ensuring adequate shelter space allocation is provided for children, as well as individuals with disabilities and others with access and functional needs who may need additional space for assistive devices (e.g., wheelchairs, walkers).
- Identify and describe the actions that will be taken to provide alternate shelter accommodations for evacuees from domestic violence shelters.
- Describe how shelters coordinate their operations with on-scene and other off-site support agencies (e.g., expected numbers evacuated, emergency medical support).

- Describe how shelters keep evacuees informed about the status of the disaster, including information about actions evacuees may need to take when returning home.
- Describe the method by which necessary developmentally appropriate supplies (e.g., diapers, formula, age appropriate foods), staff, medicines, durable medical equipment, and supplies that would be needed during an emergency for children with disabilities and other special health care needs will be addressed.
- Identify and describe the actions that will be taken to care for household pets and service animals brought to shelters by evacuees.
- Identify and describe the actions that will be taken to notify or inform the public about the status of injured or missing relatives.
- Describe the methods used to identify, screen, and handle evacuees exposed to the hazards posed by the disaster (e.g., infectious waste, polluted floodwaters, chemical hazards) and the methods used to keep the shelter free of contamination.
- Describe arrangements in place with other jurisdictions for receiving their assistance in sheltering, including providing shelters when it is not practical locally (e.g., there are no available shelters or staff support).
- Describe the agencies/organizations and methods for providing feeding services both within the shelter facilities and at other identified feeding sites or mobile feeding operations.
- Describe the plans, methods, and agencies/organizations responsible for the distribution of emergency relief items (e.g., hygiene kits, cleanup items, infant care supplies).
- Identify and describe the actions that will be taken to identify and address the general public's "unmet needs" during the disaster.
- Describe the mechanisms or processes for provision of emergency childcare services.
- Describe the mechanisms or processes for handling and providing for unaccompanied minors in shelters.
- Describe the provisions for the sheltering of unclaimed animals that cannot be immediately transferred to an animal control shelter or when non-eligible animals are brought to a shelter.
- Identify and describe the actions that will be taken to segregate or seize household pets showing signs of abuse.
- Describe the method for household pet registration (including identification of a current rabies vaccination for all animals).
- Describe the method to provide guidance to human shelter operators on the admission and treatment of service animals.
- Describe the criteria that can be used to expeditiously identify congregate household pet shelters and alternate facilities.
- Describe the method for utility provisions, such as running water, adequate lighting, proper ventilation, electricity, and backup power, at congregate household pet shelters.
- Identify and describe the actions that will be taken to address the risk of injury by an aggressive or frightened animal, the possibility of disease transmission, and other health risks for responders and volunteers staffing the congregate household pet shelter.

- Identify and describe the actions that will be taken for pre-disaster inspections and development of agreements for each congregate household pet facility.
- Describe the method of care and maintenance of each facility while in use as a shelter.
- Describe the method for identifying equipment and supplies that may be needed to operate each congregate household pet shelter, as well as supplies that household pet owners may bring with them to the congregate shelter.
- Describe the method for physical security of each congregate household pet facility, including perimeter controls and security personnel.
- Describe the method for providing for the housing of a variety of household pet species (e.g., size of crate/cage, temperature control, appropriate lighting).
- Describe the method for providing for the separation of household pets based on appropriate criteria and requirements.[13]
- Describe the method for providing for the setup and maintenance of household pet confinement areas (e.g., crates, cages, pens) for safety, cleanliness, and control of noise level, as well as a household pet first aid area inside each shelter.
- Describe the method for control of fleas, ticks, and other pests at each congregate household pet shelter.
- Describe the criteria for designating and safely segregating aggressive animals.
- Describe the method for segregation of household pets to prevent the transmission of disease.
- Identify and describe the actions that will be taken for the relocation of a household pet due to illness, injury, or aggression to an alternate facility (e.g., veterinary clinic, animal control shelter).
- Describe the method for providing controlled areas (indoor or outdoor) for exercising household pets.
- Describe the method for household pet waste and dead animal disposal.
- Describe the method for the reunion of rescued animals with their owners.
- Identify and describe the actions that will be taken to address the long-term care, permanent relocation, or disposal of unclaimed pets.

Logistics Management and Resource Support (ESF #7)

- Identify and describe the actions that will be taken for resource management in accordance with the NIMS resource typing and include the pre-positioning of resources to efficiently and effectively respond to an incident.
- Describe the process used to identify, deploy, use, support, dismiss, and demobilize affiliated and spontaneous unaffiliated volunteers.
- Describe the process used to manage unsolicited donations.
- Describe plans for establishing logistical staging areas for internal and external response personnel, equipment, and supplies.
- Describe plans for establishing points of distribution across the jurisdiction.

[13] Animal Welfare Publications and Reports. United States Department of Agriculture, Animal and Plant Health Inspection Service. http://www.aphis.usda.gov/animal_welfare/publications_and_reports.shtml.

- Describe plans for providing support for a larger, regional incident.
- Describe strategies for transporting materials through restricted areas, quarantine lines, law enforcement checkpoints, and so forth that are agreed upon by all affected parties.

Public Health and Medical Services (ESF #8)

Public Health

- Describe the agencies and methods used to maintain efficient surveillance systems supported by information systems to facilitate early detection, reporting, mitigation, and evaluation of expected and unexpected public health conditions.
- Describe the agencies and methods used to identify the public health issues created by the disaster (e.g., food/water safety, biological concerns) and to prioritize how the issues will be managed, including how this process is coordinated with the incident command post/EOC (e.g., issue vaccinations, establish quarantines).
- Describe the agencies and alternate methods used to provide potable water, bulk water, and temporary water distribution systems to the jurisdiction when the water systems are not functioning (e.g., private sources, boil orders, private wells).
- Describe the agencies and methods used to provide alternate sources for human waste disposal (e.g., arrange portable latrines, encourage sharing with those who have their own septic systems).
- Identify the lead agency for providing health and medical support to individuals with disabilities and others with access and functional needs.
- Describe the mechanisms or processes to effectively identify children and families who will need additional assistance, as well as individuals with disabilities and others with access and functional needs, with their specific health-related needs in advance of, during, and following an emergency.
- Identify and describe the actions that will be taken to secure medical records to enable children with disabilities and/or other special health care needs, as well as individuals with disabilities and others with access and functional needs, to receive health care and sustained rehabilitation in advance of, during, and following an emergency.
- Identify and describe the actions that will be taken to assess and provide mental health services for the general public (including individuals with disabilities and others with access and functional needs) impacted by the disaster.
- Identify and describe the actions that will be taken to assess and provide vector control services (e.g., insect and rodent controls, biological wastes/contamination, use of pesticides).
- Identify and describe the actions that will be taken to assess and provide food production and agricultural safety services (e.g., conducting a coordinated investigation of food and agricultural events or agricultural or animal disease outbreaks).
- Describe the use and coordination of health professionals, incident commanders, and public information officers to issue public health media releases and alert the media.
- Identify and describe the actions that will be taken to initiate, maintain, and demobilize medical surge capacity, including MAAs for medical facilities and equipment.
- Identify and describe the actions that will be taken to assess and provide animal care services (e.g., remove and dispose of carcasses, rescue/recover displaced household pets/livestock, provide

emergency veterinary care, treat endangered wildlife) and the individuals/agencies used in this process (e.g., veterinarians, animal hospitals, Humane Society, state department of natural resources).

- Identify and describe the actions that will be taken to identify and respond to gravesites/cemeteries that are impacted by the disaster (e.g., recover and replace unearthed/floating/missing coffins, review records to confirm identification, manage closed/historical gravesites).
- Describe the use and coordination of health professionals from outside agencies to support local response needs (e.g., poison control centers, state/local departments of health, Centers for Disease Control and Prevention, Funeral Directors Association, U.S. Department of Agriculture, Food and Drug Administration, Medical Reserve Corps).
- Identify potential sources for medical and general health supplies that will be needed during a disaster (e.g., medical equipment, pharmaceutical supplies, laboratories, toxicologists). Note: This information could be maintained under a separate tab or as part of a comprehensive resource manual.

Medical/Patient Care/Mass Casualty/Mass Fatality

- Identify and describe the actions that will be taken by emergency medical personnel to contain and stabilize a disaster (e.g., set up triage, provide initial treatment, identify access and functional needs, conduct/coordinate transport).
- Identify and describe the actions that will be taken to track patients from the incident scene through their courses of care.
- Describe how emergency system patient transport and tracking systems are interoperable with national and U.S. Department of Defense systems.
- Identify and describe the actions that will be taken to coordinate with private agencies to support on-scene medical operations (e.g., air ambulance, private EMS), including the process of staging and integrating those assets at the scene.
- Identify and describe the actions that will be taken to manage on-scene functions of mass casualty/fatality incidents (e.g., identification of bodies, expansion of mortuary services, notification of next of kin).
- Identify and describe the process for using hospitals, nursing homes, and/or other facilities as emergency treatment centers or as mass casualty collection points.
- Identify and describe the process for identifying shortfalls in medical supplies (e.g., backboards, medicines) and then acquiring those additional resources either locally or from external sources.
- Identify and describe the process for identifying shortfalls in durable medical equipment.
- Identify and describe the actions that hospitals, within or outside of the jurisdiction, will take to assist medical operations with on-scene personnel (e.g., prioritize patient arrival, divert patients to other sites when current site is full/less capable, provide triage team support).
- Identify and describe the actions that will be taken to decontaminate patients, individuals with access and functional needs, children, and household pets and service animals for exposure to chemical, biological, nuclear, and radiological hazards both at the scene of the incident and at treatment facilities.
- Identify and describe the actions the Coroner will take during a disaster (e.g., victim identification, morgue expansion, mortuary services, Disaster Mortuary Operational Response Team activation) and how they will be coordinated with responders (e.g., EMS officer, incident command post/EOC, local hospitals).

- Describe plans for recovering human remains, transferring them to the mortuary facility, establishing a family assistance center, assisting with personal effects recovery, conducting autopsies, identifying victims, and returning remains to the victims' families for final disposition.
- Identify and describe the actions that health department personnel will take to support on-scene medical and local hospitals in obtaining additional resources when local supplies are likely to be exhausted.

Search and Rescue (ESF #9)

- Identify and describe the actions that will be taken to conduct structural collapse (urban) search and rescue, waterborne search and rescue, inland/wilderness search and rescue, and aeronautical search and rescue operations.
- Identify and describe the actions that will be taken to monitor distress, communications, location of distressed personnel, coordination, and execution of rescue operations including extrication or evacuation along with the provisioning of medical assistance and civilian services through the use of public and private resources to assist persons and property in potential or actual distress.

Oil and Hazardous Materials Response (ESF #10)

- Describe the actions to prevent, minimize, or mitigate an oil or hazardous materials release.
- Describe the methods to detect and assess the extent of contamination (including sampling and analysis and environmental monitoring).
- Describe the methods to stabilize a release and prevent the spread of contamination.
- Describe the options for environmental cleanup and waste disposition; implementation of environmental cleanup; and storage, treatment, and disposal of oil and hazardous materials.

Agriculture and Natural Resources (ESF #11)

- Describe the process to determine nutrition assistance needs, obtain appropriate food supplies, and arrange for delivery of the supplies.
- Describe the plan to respond to animal and plant diseases and pests, including an outbreak of a highly contagious or economically devastating animal/zoonotic disease or an outbreak of a harmful or economically significant plant pest or disease.
- Describe the methods to ensure the safety and security of the food supply.
- Describe the response actions to preserve, conserve, rehabilitate, recover, and restore natural and cultural resources and historic properties.

Energy (ESF #12)

- Describe the process to address significant disruptions in energy supplies for any reason, whether caused by physical disruption of energy transmission and distribution systems, unexpected operational failure of such systems, or unusual economic or international political events.
- Describe the process to address the impact that damage to an energy system in one geographic region may have on energy supplies, systems, and components in other regions relying on the same system.
- Describe/identify the energy-centric critical assets and infrastructures, as well as the method to monitor those resources to identify and mitigate vulnerabilities to energy facilities.

Public Safety and Security (ESF #13)

- Describe the method by which public safety and security resources will be provided to support incident operations, including threat or pre-incident and post-incident situations.
- Describe the process to determine public safety and security requirements and to determine resource priorities.
- Describe the process to maintain communication with supporting agencies to determine capabilities, assess the availability of resources, and track resources.

Long-Term Community Recovery (ESF #14)

- Describe the coordination mechanisms and requirements for post-incident assessments, plans, and activities.
- Describe the methods of identifying long-term recovery needs of special needs populations and incorporating these needs into recovery strategies.
- Describe the methods of identifying long-term environmental restoration issues.
- Describe the method of coordination with animal welfare and agricultural stakeholders and service providers in long-term community recovery efforts.

External Affairs (ESF #15)/Emergency Public Information

- Identify and describe the actions that will be taken to provide continuous and accessible public information about the disaster (e.g., media briefings, press releases, cable interruptions, EAS, text messages, door-to-door warnings), secondary effects, and recovery activities.
- Identify and describe the actions that will be taken to ensure that information provided by all sources includes the content necessary to enable reviewers to determine its authenticity and potential validity.
- Identify and describe plans, programs, and systems to control rumors by correcting misinformation rapidly.
- Identify and describe the actions that will be taken to inform individuals with sensory, intellectual, or cognitive disabilities; individuals with limited English proficiency; and others with access and functional needs in the workplace, public venues, and in their homes.
- Describe the role of a public information officer and the actions this person will take to coordinate public information releases (e.g., working with media at the scene, using a Joint Information Center, coordinating information among agencies/elected and appointed officials), including household pet evacuation and sheltering information.
- Describe how responders/local officials will use and work with the media during an emergency (e.g., schedule press briefings; establish media centers on-scene; control access to the scene, responders, and victims).
- Include prepared public instructions for identified hazards, including materials for managers of congregate care facilities, such as childcare centers, group homes, assisted living centers, and nursing homes.
- Identify and describe the actions that will be taken to manage rumor control on- and off-scene (e.g., monitoring AM/FM radio and television broadcasts).

- Describe how public statements on shelter capacity and availability will be updated as people/animals are coming to shelters.
- List the local media contacts and describe their abilities to provide warnings.

Population Protection

- Identify and describe the actions that will be taken to coordinate evacuations and sheltering-in-place for all segments of the population, including children, individuals with disabilities, and others with access and functional needs.
- Describe the protocols and criteria used to decide when to recommend evacuation or sheltering-in-place.
- Describe the conditions necessary to initiate an evacuation or sheltering-in-place and identify who has the authority to initiate such action.
- Identify and describe the actions that will be taken to conduct the evacuation (e.g., of high-density areas, neighborhoods, high-rise buildings, subways, airports, schools, special events venues, areas with a high concentration of children and individuals with disabilities) and to provide security for the evacuation area.
- Identify and describe the actions that will be taken to perform advanced/early evacuation, which is often necessary to accommodate children and others with mobility issues.
- Identify and describe the actions that will be taken to provide safe evacuation/transportation assistance to unaccompanied minors.
- Identify and describe the actions that will be taken to track unaccompanied minors and to reunite children with their families.
- Identify and describe the actions that will be taken to protect target at-risk groups and/or facilities (e.g., racial, ethnic, religious) in the event of a terrorism alert.
- Describe the plan for receiving those evacuated as a result of hazards in neighboring jurisdictions, including household pets and service animals.
- Describe the methods used to keep children and others with disabilities with their caregivers, mobility devices, other durable medical equipment, and/or service animals during an evacuation.
- Identify and describe the actions that will be taken to exchange registration and tracking information between and among the evacuating jurisdiction, the receiving jurisdiction(s), and the jurisdictions that evacuees will pass through.
- Describe the coordination strategies for managing and possibly relocating incarcerated persons during a crisis response.
- Describe how and when the public is notified (including individuals with sensory disabilities and individuals with limited English proficiency), explaining the actions they may be advised to follow during an evacuation, while sheltering-in-place, upon the decision to terminate sheltering-in-place, and throughout the incident.
- Describe the protocols and criteria the jurisdiction will use to recommend termination of sheltering-in-place.
- Identify and describe the actions that will be taken to identify and assist moving evacuees, including assisting individuals with disabilities and others with access and functional needs.

- Identify and describe the actions that will be taken to provide for the care of the evacuees' household pets and service animals or to instruct evacuees on how to manage their household pets and service animals during an evacuation and in returning home when permitted.
- Describe how agencies coordinate the decision to return evacuees to their homes, including informing evacuees about any health or physical access concerns or actions they should take when returning to homes/businesses.
- Identify and describe the actions that will be taken to identify and assist the return of evacuees to their homes/communities, including individuals with disabilities and others with access and functional needs.
- Identify and describe the actions that will be taken when the general public refuses to evacuate (e.g., implement forced removal, contact next of kin, place unique markings on homes, take no action).
- Identify and describe the actions that will be taken to ensure the availability of sufficient and timely accessible transportation to evacuate children and other individuals with access and functional needs whose families do not have their own transportation resources.
- Describe the means and methods by which evacuation transportation requests from schools, individuals with disabilities, and others with access and functional needs are collected and consolidated.
- Describe the means by which incoming transportation requests will be tracked, recorded, and monitored as they are fulfilled.
- Describe how accessible transportation resources (including paratransit service vehicles, school buses, municipal surface transit vehicles, drivers, and/or trained attendants) that can provide needed services during an evacuation are identified.
- Describe the evacuation and transportation of household pets from their homes or by their owners or those household pets rescued by responders to congregate household pet shelters.
- Describe how household pet owners will determine where congregate household pet shelters are located and which shelter to use.
- Describe methods of transportation for household pets or service animals whose owners are dependent on public transportation.
- Describe how household pets that are provided with evacuation assistance are registered, documented, tracked, and reunited with their owners if they are separated during assisted evacuations.

Continuity of Government/Operations

Note: Continuity of government (COG)/continuity of operations (COOP) may have a separate plan from the EOP. If a separate COG/COOP plan is used, it should be identified in the EOP.

- Describe essential functions, such as providing vital services, exercising civil authority, maintaining the safety and well-being of the populace, and sustaining the industrial/economic base in an emergency.
- Describe plans for establishing recovery time objectives, recovery point objectives, or recovery priorities for each essential function.
- Identify personnel and/or teams needed to perform essential functions.
- Describe orders of succession and delegations of authority.
- Describe continuity/alternate facilities and continuity communications methods.

- Describe plans for vital records and human capital management.
- Describe plans for devolution or direction and control.
- Describe plans for reconstitution of operations.
- Identify applicable training and exercise programs.
- Describe the processes for evaluations, AARs, and lessons learned.
- Describe the process and criteria for corrective action plans.

Warning

- Identify and describe the actions that will be taken to initiate/disseminate the initial notification that a disaster or threat is imminent or has occurred (e.g., Emergency Alert System [EAS] activation, door-to-door warnings, sirens, cable/TV messages).
- Describe the use of emergency condition levels in the public notification process (e.g., snow emergencies, HAZMAT incidents, nuclear power plant incidents).
- Identify and describe the actions that will be taken to alert individuals with sensory or cognitive disabilities and others with access and functional needs in the workplace, public venues, and in their homes.
- Include pre-scripted EAS messages for identified hazards.

Financial Management

- Identify and describe the actions that will be taken to ensure that funds are provided expeditiously and that financial operations are conducted in accordance with established law, policies, regulations, and standards.

Mutual Aid/Multijurisdictional Coordination

- Describe the processes to establish and execute mutual aid agreements and multijurisdictional coordination in support of incident response.

Private Sector Coordination

- Describe the processes to ensure effective coordination and integration with the private sector, both for-profit and not-for-profit, engaged in incident response and recovery activities.
- Describe the processes to ensure a shared situational awareness across sectors and between the jurisdiction and the private sector as a whole.

Volunteer and Donations Management

- Describe the method by which unaffiliated volunteers and unaffiliated organizations will be managed and their resources applied to incident response and recovery activities.
- Identify and describe the actions that will be taken to establish and staff donation management functions (e.g., set up toll-free hotlines, create databases, appoint a donations liaison/office, use support organizations).
- Identify and describe the actions that will be taken to verify and/or vet voluntary organizations and/or organizations operating relief funds.

- Identify and describe the actions that will be taken to collect, sort, manage, and distribute in-kind contributions, including methods for disposing of or refusing goods that are not acceptable.
- Identify and describe the actions that will be taken to coordinate donation management issues with neighboring districts and the state's donations management system.
- Describe the process used to tell the general public about the donations program (e.g., instructions on items to bring and not bring, scheduled drop-off sites and times, the way to send monies), including a process for issuing routine updates.
- Identify and describe the actions that will be taken to handle the spontaneous influx of volunteers.
- Identify and describe the actions that will be taken to receive, manage, and distribute cash contributions.
- Pre-identify sites that will likely be used to sort and manage in-kind contributions (e.g., private warehouses, government facilities).

Worker Safety and Health

- Describe the processes to ensure response and recovery worker safety and health during incident response and recovery.

Prevention and Protection Activities

This annex describes the methods to be followed to conduct basic prevention and protection activities.

Prevention Activities

This process is used to identify prevention activities designed to reduce the risk of terrorism.

- Describe the process for managing and ensuring operational and threat awareness among government organizations and sectors.
- Describe the process for sharing information between the fusion center(s) and the EOC(s).
- Describe the integration of prevention activities in support of response and recovery operations.

Protection Activities

This process is used to identify protection activities designed to reduce the risk of terrorism.

- Describe the process for managing the CIKR identification and protection efforts involving all threats and hazards.
- Describe the integration of protection activities in support of response and recovery operations.

Hazard- or Threat-Specific Annexes Content Guide

These annexes describe emergency response strategies that apply to a specific hazard. Future CPGs will provide greater detail on developing these annexes.

Local communities may integrate hazard-specific information into functional annexes if they believe such integration would make the plan easier to read and use. Conversely, the unique functional needs generated by the hazard should be addressed in the hazard/threat annex.

Local communities may find it appropriate to address specific hazards or threats in completely separate and stand-alone plans. In this case, the EOP must specifically reference those plans and provide a brief summary of how the EOP is to be coordinated with the stand-alone plans.

Some hazards have unique planning requirements directed by specific state and Federal laws. The local emergency management agency must review those requirements and determine how the EOP can best address and meet those legal requirements.

Human-Caused Hazards

These are disasters created by man, either intentionally or by accident.

Civil Unrest

This section of the annex should address the hazard-specific methods the jurisdiction uses to prepare for and respond to civil unrest emergencies/disasters. The section should also identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from civil unrest emergencies (e.g., riots, school shootings).

Terrorism

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to prevent, protect against, prepare for, respond to, and recover from terrorist acts. The attacks covered should include, but not be limited to, attacks involving weapons of mass destruction, such as CBRNE incidents. Note: Some state emergency management agencies or homeland security offices have developed specific guidance for this planning element. Specific planning criteria are established in that guidance, and it must be reviewed in order to develop the terrorism plan. Planners should ensure that the EOP is compliant with any state, territorial, or tribal terrorism planning criteria.

Natural Hazards

Biological Incidents

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from epidemic diseases and biological incidents (e.g., West Nile virus, hoof and mouth disease, smallpox). Include a hazard analysis summary that discusses where/how biological incidents are likely to impact the community.

Droughts

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from droughts (e.g., water conservation, public water outages, and wildfire issues). Include a hazard analysis summary that discusses where/how droughts are likely to impact the jurisdiction.

Earthquakes

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from earthquakes. Include a hazard analysis summary that discusses where/how earthquakes are likely to impact the jurisdiction.

Flood/Dam Failures

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from flood/dam emergencies/disasters (e.g., flash floods, inundation floods, floods resulting from dam failures or ice jams). Include a hazard summary that discusses where (e.g., 100-year and common floodplains) and how floods are likely to impact the jurisdiction.

Hurricanes/Severe Storms

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from hurricanes/severe storms. Include a hazard analysis summary that discusses where/how hurricanes/severe storms are likely to impact the jurisdiction.

Tornadoes

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from tornadoes. Include a hazard analysis summary that discusses where/how tornadoes are likely to impact the jurisdiction (e.g., historical/seasonal trends, damage levels F1 through F5).

Winter Storms

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from winter storms (e.g., blizzards, ice jams, ice storms). Include a hazard analysis summary that discusses where/how winter storms are likely to impact the jurisdiction.

Technological Hazards

These incidents involve materials created by man and that pose a unique hazard to the general public and environment. The jurisdiction needs to consider incidents that are caused by accident (e.g., mechanical failure, human mistake), result from an emergency caused by another hazard (e.g., flood, storm), or are caused intentionally.

Hazardous Materials

This section of the annex should address the hazard-specific procedures and methods used to prepare for and respond to releases that involve HAZMAT that is manufactured, stored, or used at fixed facilities or in transport (if not addressed in a functional annex, such as ESF #10). This section may include materials that exhibit incendiary or explosive properties when released. Note: Some states have laws that require each Local Emergency Planning Committee (LEPC) to develop a Chemical Emergency Preparedness and Response Plan on this topic. Some states have laws requiring the local emergency management agency to incorporate the LEPC's plan into the emergency management agency's planning and preparedness activities. Specific planning criteria established by a State Emergency Response Commission must be reviewed and addressed in order to develop the LEPC plan.

- For LEPCs that complete a stand-alone plan, describe how the jurisdiction coordinates that plan with the EOP.
- For LEPC plans that are part of the EOP, describe how the planning team used and adhered to the State Emergency Response Commission criteria in order to be in compliance with those requirements and the EOP requirements discussed previously.

Lethal Chemical Agents and Munitions

This section of the annex should identify and describe the jurisdiction's specific concerns, capabilities, training, agencies, and resources used to mitigate against, prepare for, respond to, and recover from lethal chemical agent and munitions incidents (e.g., sarin, mustard, and VX). Include a hazard analysis summary that discusses where/how chemical agent incidents are likely to impact the community.

Radiological Incidents

This section of the annex should address the hazard-specific methods to prepare for and respond to releases that involve radiological materials that are at licensed facilities or in transport.

- Describe/identify the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from radiological hazards. Include a hazard analysis summary that discusses where/how radiological materials are likely to impact the jurisdiction, including incidents that occur at fixed facilities, along transportation routes, or as fallout from a nuclear weapon.
- If applicable, address the requirements of FEMA/U.S. Nuclear Regulatory Commission NUREG-0654 and Code of Federal Regulations Part 44, Section 350 as it applies to the jurisdiction's planning for emergencies/disasters involving regulated nuclear power plants.

Additional Hazards (as Applicable)

Add additional annexes to include other hazards identified through the jurisdiction's hazard analysis (e.g., mass casualty, plane crash, train crash/derailment, school emergencies).

- Describe/identify the jurisdiction's specific concerns, capabilities, training, agencies, and resources that will be used to mitigate against, prepare for, respond to, and recover from other hazards as defined in the jurisdiction's hazard analysis.

Appendix D: Suggested Training

At a minimum, the Federal Emergency Management Agency (FEMA) suggests completing the following independent study courses offered by FEMA's Emergency Management Institute (http://training.fema.gov/IS/):

- IS-1: Emergency Manager: An Orientation to the Position
- IS-10: Animals in Disaster, Module A – Awareness and Preparedness
- IS-11: Animals in Disaster, Module B – Community Planning
- IS-100.a: Introduction to Incident Command System
- IS-120.a: An Introduction to Exercises
- IS-130: Exercise Evaluation and Improvement Planning
- IS-197.EM: Special Needs Planning Considerations – Emergency Management
- IS-200.a: ICS for Single Resources and Initial Action Incidents
- IS-208.a: State Disaster Management
- IS-230.a: Fundamentals of Emergency Management
- IS-235: Emergency Planning
- IS-288: The Role of Voluntary Agencies in Emergency Management
- IS-366: Planning for the Needs of Children in Disasters
- IS-547.a: Introduction to Continuity of Operations
- IS-650.a: Building Partnerships with Tribal Governments
- IS-700.a: NIMS – An Introduction
- IS-701.a: NIMS Multiagency Coordination Systems
- IS-702.a: NIMS Public Information Systems
- IS-703.a: NIMS Resource Management
- IS-704: NIMS Communications and Information Management
- IS-706: NIMS Intrastate Mutual Aid – An Introduction
- IS-800.b: National Response Framework, An Introduction
- IS-860.a: National Infrastructure Protection Plan
- Additional Training Sources:
  - Center for Domestic Preparedness (http://cdp.dhs.gov)

- Counter Terrorism Operations Support Program (http://www.ctosnnsa.org/index.html)
- Emergency Management Institute (http://training.fema.gov/EMICourses)
- Emergency Management Institute Courses Conducted by States (http://training.fema.gov/EMIWeb/STCourses)
- Energetic Materials Research and Testing Center at New Mexico Institute of Mining and Technology (http://www.emrtc.nmt.edu)
- Learn About Risk (http://www.learnaboutrisk.com)
- National Center for Biomedical Research and Training at Louisiana State University (http://www.ncbrt.lsu.edu)
- National Incident Management System (http://www.fema.gov/emergency/nims/NIMSTrainingCourses.shtm)
- National Training and Education Division (https://www.firstrespondertraining.gov)
- Office of the Director of National Intelligence's Program Manager – Information Sharing Environment (http://www.ise.gov/training/awareness/sco1.aspx)
- Texas Engineering Extension Service at Texas A&M University (http://teexweb.tamu.edu)

FEMA
DISASTER ASSISTANCE POLICY

I. TITLE: Eligible Costs Related to Pet Evacuations and Sheltering

II. DATE: OCT 24 2007

III. PURPOSE:

The purpose of this policy is to identify the expenses related to State and local governments' emergency pet evacuation and sheltering activities that may be eligible for reimbursement following a major disaster or emergency declaration.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters and emergencies declared on or after its date of issuance. It is intended to be used by FEMA personnel involved in making eligibility determinations under the Public Assistance Program.

V. AUTHORITY:

Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5170b, 42 U.S.C. 5192; the Pets Evacuation and Transportation Standards Act (PETS Act) of 2006, P.L. No. 109-308, § 4, 120 Stat. 1725 (2006); and 44 CFR §§ 206.223(a), 206.225(a).

VI. BACKGROUND:

On October 6, 2006, the PETS Act was signed into law, amending Section 403 of the Stafford Act. Section 403, as amended by the PETS Act, authorizes FEMA to provide rescue, care, shelter, and essential needs for individuals with household pets and service animals, and to the household pets and animals themselves following a major disaster or emergency.

VII. POLICY:

A. **Definitions:**

1. Household Pet. A domesticated animal, such as a dog, cat, bird, rabbit, rodent, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Household pets do not

include reptiles (except turtles), amphibians, fish, insects/arachnids, farm animals (including horses), and animals kept for racing purposes.

2. Service Animal[1]. Any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

3. Congregate Household Pet Shelters. Any private or public facility that provides refuge to rescued household pets and the household pets of shelterees in response to a declared major disaster or emergency.

B. **Eligibility.** State and local governments that receive evacuees from areas declared a major disaster or an emergency may seek reimbursement for eligible pet rescue, sheltering, and evacuation-support costs.

1. State and local governments outside the designated disaster area may seek reimbursement under mutual aid protocols through the affected and supported state(s). (44 CFR § 206.223(a)(2)).

2. State and local governments are the only eligible applicants for sheltering and rescuing household pets and service animals. Contractors or private nonprofit (PNP) organizations that shelter or rescue household pets and service animals cannot be reimbursed directly as an applicant. However, contractors and PNPs can be reimbursed for sheltering and rescuing household pets and service animals through a state or local government, provided a written statement from an eligible applicant is presented in which the applicant verifies that the contractor or PNP is performing or has performed sheltering or rescuing operations on the applicant's behalf and the expenses are documented.

C. **Household Pet Rescue.** State and local governments may conduct rescue operations for household pets directly or they may contract with other providers for such services. Eligible costs include, but are not limited to, the following:

1. Overtime for regular full-time employees.

[1] Department of Justice, Americans with Disabilities Act (ADA), 42 USC 1201 et seq, implementing regulations at 28 CFR § 36.104.

2. Regular-time and overtime for contract labor (including mutual aid agreements) specifically hired to provide additional support required as a result of the disaster.

3. The use of applicant-owned or leased equipment (such as buses or other vehicles) to provide eligible pet transportation to congregate pet shelters may be reimbursed according to 44 CFR § 206.228(1)(a) (does not include operator labor). The cost of leasing equipment for this purpose may also be eligible for reimbursement.

D. **Congregate Household Pet Sheltering.** State and local governments may conduct sheltering operations for pets directly, or may contract with other sheltering providers for such services. Eligible Category B congregate pet sheltering costs may include, but are not limited to, the *reasonable* costs for:

1. Facilities.

- Minor modifications to buildings used for congregate household pet sheltering, if necessary to provide increased capacity for the accommodation of shelterees' household pets.
- Facility lease or rent.
- Increase in utility costs, such as power, water, and telephone.
- Generator lease and operation (but not purchase).
- Shelter safety and security.
- Shelter management.
- Shelter and crate/cage cleaning.

2. Supplies and Commodities. Eligible items are those needed for, and used directly on, the declared disaster, and are reasonable in both cost and need. Examples include:

- Food, water, and bowls.
- Crates/Cages.
- Pet transport carriers.
- Animal cleaning tables and supplies.
- Medication for animal decontamination and parasite control to ensure that the animal is not a health threat to humans or other animals.

3. Eligible Labor. If the regular employees of an eligible applicant perform duties in direct support of congregate pet sheltering operations, any overtime pay related to such duties is eligible for reimbursement. However, the straight-time pay of these employees is not eligible. Regular-time and overtime for contract labor, including mutual aid agreements,

specifically hired to provide additional support required as a result of the disaster or emergency is also eligible for reimbursement.

4. Equipment. The use of applicant-owned or leased equipment (such as buses, trucks, or other vehicles) to provide eligible pet evacuation or sheltering support may be reimbursed according to 44 CFR §206.228(1)(a) (does not include operator labor). The cost of leasing equipment may also be an eligible expense for reimbursement.

5. Emergency Veterinary Services. For the purposes of screening the health of household pets and service animals, and assessing and treating minor illnesses and injuries, congregate pet shelters may be staffed with emergency veterinary teams. The following costs related to the provision of emergency veterinary services in a congregate pet sheltering environment are eligible for reimbursement:

- Veterinary diagnosis, triage, treatment, and stabilization.
- Provision of first aid, including materials (bandages, etc.).
- Medicine.
- Supervision of paid and volunteer veterinary staff.
- Vaccinations administered to protect the health and safety of congregate shelter and supporting emergency workers including but not limited to tetanus and hepatitis.
- Vaccinations administered to protect the health and safety of congregate shelter pets for transmissible or contagious diseases including but not limited to bordetella/kennel cough.

6. Transportation. Transportation of evacuees' household pets and service animals to congregate shelters from pre-established pickup locations is an eligible expense when the means of transportation used is the most cost-effective available.

7. Shelter Safety and Security. Additional reimbursable safety and security services may be provided at congregate pet shelters, based upon need.

8. Cleaning and Restoration. The costs (to the Applicant) to clean, maintain, and restore a facility to pre-congregate pet shelter condition are eligible.

9. Removal and Disposal of Animal Carcasses. The costs (to the Applicant) to remove and dispose of animal carcasses in a safe and timely manner and in compliance with applicable laws and regulations are eligible.

10. Cataloging/Tracking System for Pets. The reasonable costs (to the Applicant) for tracking animals at congregate pet shelters for the purposes of reuniting them with their owners are eligible.

E. **Service animals.** Service animals will be sheltered with their owners in congregate shelters.

F. **Length of Operation.** Costs of sheltering/caring for household pets will no longer be eligible for FEMA reimbursement when the pet owner transitions out of Section 403 emergency sheltering.

VIII. ORIGINATING OFFICE: Disaster Assistance Directorate (Public Assistance Division).

IX. SUPERSESSION: This policy supersedes all previous guidance on this subject.

X. REVIEW DATE: Three years from date of publication.

Carlos J. Castillo
Assistant Administrator
Disaster Assistance Directorate

CONGRESS.GOV

FEMA's Public Assistance Program: A Primer and Considerations for Congress

CRS Product Type:	Reports
CRS Product Number:	R46749
Referenced Legislation:	P.L.113-2; P.L.115-254; P.L.93-288
Topics:	Federal Government Management & Organization; Homeland Security & Emergency Management
Publication Date:	04/01/2021
Author:	Lee, Erica A.

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Summary

The Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Program is central to contemporary U.S. federal emergency and disaster relief. Over the past 10 years, PA has been authorized in every county, parish, and municipality in the United States. The reconstruction of entire infrastructure systems following Hurricane Katrina, mass evacuations ahead of California wildfires, and emergency medical care during the Coronavirus Disease 2019 (COVID-19) pandemic were all funded through PA.

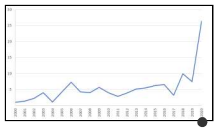
Administered by FEMA, the PA Program assists state, tribal, territorial, and local governments and certain nonprofits with both urgent response and long-term recovery work following a presidential declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act, as amended, P.L. 93-288). The Stafford Act provides PA for response and recovery through a federalist model intended to supplement—not supplant—nonfederal resources. FEMA and the state, tribe, or territory that received a declaration jointly administer PA, and the costs are shared between the federal government and nonfederal entities receiving assistance.

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    - Requesting and Authorizing Public Assistance for Emergencies
    - Requesting and Authorizing Public Assistance for Major Disasters
    - PA Recipients and Applicants
  - Eligibility
    - Applicants
    - Facility
    - Work

Congress has addressed the scope, timeliness, and cost of PA in recent legislation and hearings, often in the wake of severe disasters, The Sandy Recovery Improvement Act of 2013 (Division B of P.L. 113-2;) and the Disaster Recovery Reform Act of 2018 (Division D of P.L. 115-254) included modifications to PA authorities that may expedite the completion of PA projects, reduce PA spending, and promote work that mitigates the risk of future damage. Still, as the frequency and severity of PA-eligible disasters mounted in recent years, so did the utilization and cost of PA.

FEMA's Public Assistance Program Obligations FY2000-FY2020 (billions)



Source: CRS analysis of data provided by FEMA Office of Congressional and Legislative Affairs.

This report summarizes PA Program authorities and requirements. It also presents considerations relevant to the following policy questions for Congress:

- How, if at all, may Congress seek to respond to recent PA spending increases?
- How can the federal government effectively oversee the PA Program while swiftly assisting disaster-stricken communities?
- How, if at all, may Congress promote resilience through PA?
- How will the federal government address delays in PA project completion and recovery?
- To promote the timely and cost effective-execution of PA projects, Congress recently authorized Alternative Procedures. Has the implementation of Alternative Procedures met these goals?
- How may Congress seek to address the potential strain of PA on local, state, and federal workforce capacity, given the demands of grant management?
- To what extent should FEMA exercise discretion in determining what costs are eligible for PA?

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In terms of cost, scope, and application, Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Program is arguably the most extensive general disaster relief program active in the United States today. Over the past 10 years, Presidents have authorized PA for every county in the United States. On average, PA accounts for the largest share of obligations from the Disaster Relief Fund (DRF), and spending is increasing. PA obligations have increased in the past three years, and reached a new high in FY2020 (see "PA Funding").

Administered by the FEMA, PA is often the first federal assistance to be authorized and the last to close out in a disaster-stricken community. Under the authorities of the Robert T. Stafford Emergency Assistance and Disaster Relief Act (the Stafford Act, as amended, P.L. 93-288),[1] the President may authorize PA to provide a range of assistance through an emergency or major disaster declaration. PA has funded mass evacuations ahead of California wildfires, emergency medical care during the Coronavirus Disease 2019 (COVID-19) pandemic, and the reconstruction of entire infrastructure systems damaged by Hurricane Katrina.[2]

The PA Program faces historic demands. At this moment in the 117th Congress, PA is authorized in every locality in the United States to provide relief from the COVID-19 pandemic—an unprecedented use of PA. Additionally, some jurisdictions have concurrent PA authorizations for additional incidents, including 2020 flooding in the Midwest, the 2020 flooding and dam breaches in Michigan, the December 2020 Nashville bombing, and early 2021 severe winter storms in Texas, Oklahoma, and Louisiana.[3] Over the past decade, Congress has revised key PA authorities to address the complexity, growing cost, and expanding scope of the PA Program. This report summarizes issues facing the 117th Congress during this period of extensive utilization of the PA Program.

Scope and Structure of Report

This report includes three major sections:

- The first part provides an overview of PA statutory authorities, rules, policies, and administration.

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- The second part discusses the funding of the PA Program and describes trends in historical DRF obligations for PA, including the growth in PA expenditures and the breakdown of PA obligations by type of work, hazard, and geography.
- The third part offers considerations for Congress regarding the PA Program. Considerations include PA spending increases, oversight issues, and promoting resilience.

This report additionally includes the following appendices:

- **Appendix A** includes a snapshot of PA deployed to respond to the COVID-19 pandemic.
- **Appendix B** describes how FEMA delivers PA funds to disaster-stricken entities.
- **Appendix C** provides a bibliography of guidance for PA Alternative Procedures, a variation on the standard procedures FEMA uses to deliver PA.
- **Appendix D** provides a list of acronyms referenced in the report.

Program Overview

The PA Program provides assistance to states, tribes, territories, local governments, and eligible nonprofits—not businesses, individuals, or homeowners (many of whom are eligible for assistance through other programs). PA is not automatically authorized for all incidents; it is only authorized when the President declares an emergency or major disaster declaration under the Stafford Act (see "Requesting, Authorizing, and Administering PA").[4]

Like all Stafford Act assistance, PA is designed to supplement—not supplant—nonfederal resources for emergency response and recovery. The federal government shares the cost of work eligible for PA (see "Cost-Share") with nonfederal entities receiving assistance. PA awards fund the costs of response activities (referred to as *PA emergency work*), including debris removal and emergency protective measures, or recovery (referred to as *PA permanent work*), meaning the costs of restoring or replacing

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eligible disaster-damaged public and nonprofit facilities. The DRF funds PA administration and awards along with other types of Stafford Act assistance.[5]

Terms

Within this report, the term "state" refers to states and territories. For purposes of the Stafford Act, "'State' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands" (42 U.S.C. §5122(4)).

The term "tribes" refers to Indian tribal governments. Per the Stafford Act, "[t]he term 'Indian tribal government' means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994" (42 U.S.C. §5122(6)).

Generally, Stafford Act assistance is requested by the "governor" (i.e., "the chief executive of any State" (42 U.S.C. §5122(5)), or the "chief executive" (i.e., "the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government" (42 U.S.C. §5122(12)).

The term "Recipient" in this report refers to "an entity that receives a Federal award directly from a Federal awarding agency to carry out an activity" and the term "Applicant" refers to entities that are responsible for PA projects, per FEMA, *Public Assistance Program and Policy Guide (PAPPG 2020)*, FP 104-009-2, effective June 1, p. 21-22, https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf (hereinafter FEMA, *PAPPG 2020*).

"Nonfederal" describes resources, entities, or authorities exclusive of the federal governments. Some nonfederal entities may apply for PA, becoming PA Applicants. This report refers to state, local, tribal, and territorial governments as SLTTs.

PA is authorized by multiple sections of the Stafford Act (see **Table 1**).[6] Recent statutory revisions of PA include those enacted under the Sandy Recovery Improvement Act (SRIA, Division B of P.L. 113-2; see "Alternative Procedures")[7] and the Disaster Recovery Reform Act of 2018 (DRRA; Division D of P.L. 115-254) explicitly undertaken to reduce costs, increase the flexibility of the program, and promote resilience in PA-funded work (see "Building Standards" and "Promoting Resilience Through PA").[8]

FEMA administers PA;[9] agency rules governing the PA Program are promulgated in 44 C.F.R. §206. The statutory and regulatory frameworks governing PA are further interpreted and detailed in numerous FEMA guidance and policy documents describing program procedures and disaster-specific rules, among other items.[10]

Table 1. Public Assistance Authorizing Statutes

Stafford Act Section	Assistance Authorized

Section 407, 428, or 502	Emergency Work: Debris Removal[a]
Section 402, 403, 418, 419, or 502[c]	Emergency Work: Emergency Protective Measures[a]
Section 406 or Section 428	Permanent Work: Roads/Bridges[b]
Section 406 or Section 428	Permanent Work: Water Control Facilities[b]
Section 406 or Section 428	Permanent Work: Buildings/Equipment[b]
Section 406 or Section 428	Permanent Work: Utilities[b]
Section 406 or Section 428	Permanent Work: Parks, Recreational, and Other Facilities[b]
Section 324	Management of Public Assistance and Hazard Mitigation Assistance Grants[a]

Source: FEMA, *Public Assistance Program and Policy Guide*, FP 104-009-2, effective June 1, 2020, pp. 17-18.

Notes:

a. This type of assistance may be made available if authorized pursuant to a presidential declaration of emergency or major disaster.

b. This type of assistance may only be made available if authorized pursuant to a presidential declaration of major disaster.

c. PA authorized under Sections 402, 418, and 419 refer to Direct Federal Assistance.

Requesting, Authorizing, and Administering PA

PA is generally available to an affected community only if authorized by a presidential declaration of emergency or major disaster.[11] PA emergency work may be authorized for both emergencies and major disasters, while permanent work may only be authorized for major disasters, as summarized in **Figure 1.**

Figure 1. Forms of Public Assistance Authorized Under Stafford Act Declarations



Sources: Developed by CRS based on 44 C.F.R. §206.204(c) and (d); and FEMA, *Public Assistance Policy and Program Guide,* FP 104-009-2, effective June 1, 2020, p. 51.

Requesting and Authorizing Public Assistance for Emergencies

The Stafford Act defines emergencies broadly: emergencies may be any incident that requires federal assistance to save lives; protect property as well as public health and safety; and lessen or avert the threat of catastrophe.[12] Therefore, a Stafford Act emergency declaration may be issued before a hazard strikes—for example, when a hurricane is projected to make landfall—or after.[13] PA emergency work is often the only type of federal assistance authorized for emergencies declared under the Stafford Act.[14]

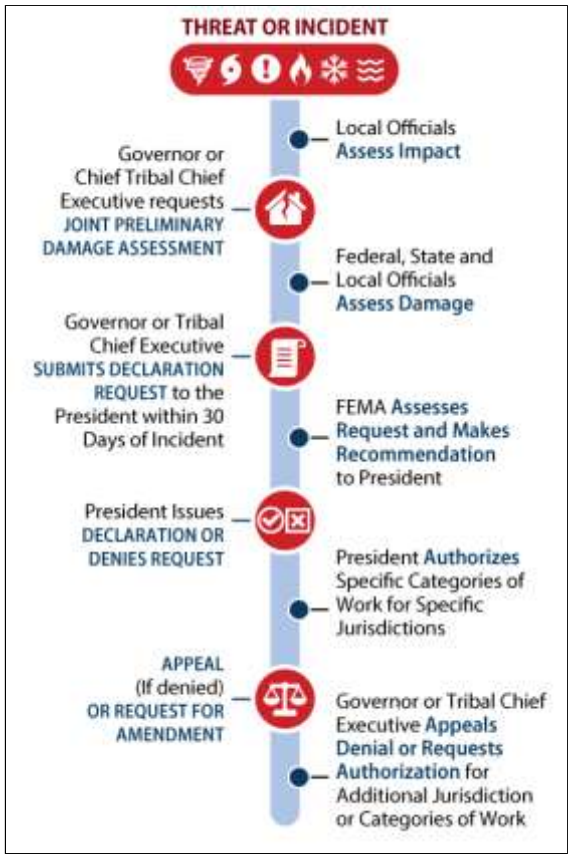
Generally, a governor or tribal chief executive requests an emergency declaration after determining that a hazard will exceed state or tribal capacity to respond. Governors and tribal chief executives must describe the resources already deployed (including activation of emergency plans) and describe the types of federal assistance required in their request.[15] FEMA then evaluates whether the incident's "severity and magnitude" exceed the response capacity of SLTTs, therefore warranting PA.[16]

Separately, the President may unilaterally declare an emergency for incidents involving federal primary responsibility pursuant to Section 501(b) of the Stafford Act.[17] It is rare, however, for the President to issue a declaration absent a governor or chief executive's request. Historical invocations include incidents on federal property, for example, the attack on the Alfred P. Murrah federal courthouse in Oklahoma City and the Explosion of the Space Shuttle Columbia.[18] In 2020, President Donald J. Trump declared a nationwide emergency for response to the COVID-19 pandemic under this authority—a declaration unprecedented in scope (see **Appendix A**).[19]

Requesting and Authorizing Public Assistance for Major Disasters

The Stafford Act requires that governors or tribal chief executives make a request for a major disaster declaration; the President does not have authority to unilaterally issue such a declaration.[20] PA for a major disaster can authorize federal reconstruction for major losses, which has totaled more than $10 billion for severe events like Hurricane Katrina, Superstorm Sandy, and Hurricane Maria.[21] To assess the request, FEMA conducts a Preliminary Damage Assessment (PDA) jointly with state, local, tribal, and territorial officials (hereinafter SLTTs; see **Figure 2**). PDAs estimate the potential costs of major response and recovery activities.[22]

Figure 2. Stafford Act Declaration Request Process



Source: Developed by CRS based on 44 C.F.R. §§206.31-206.48.

FEMA uses PDAs to analyze six factors established in agency regulations to assess a request for a major disaster for states, as defined by the Stafford Act.[23] For requests from tribal chief executives, FEMA additionally considers factors including unique conditions (e.g., remote location), demographics, and economic impact.[24] FEMA then recommends a course of action to the President.[25] While no single factor is determinative, FEMA typically recommends the authorization of PA only if the estimated cost exceeds specific thresholds across the jurisdiction.[26] The factors are the following:

1. **Estimated Cost of Assistance:** FEMA determines whether estimated costs of PA-eligible work across the jurisdiction exceed $1 million total across a state or territory or $250,000 across a tribe.[27] Additionally, for states and territories, costs must meet or exceed annually adjusted per-capita thresholds across the county and the state or territory in need.[28] In FY2021, the per-capita threshold across a state or territory requesting PA is $1.55, and across a county is $3.89.[29]

2. **Localized Impacts:** FEMA may recommend authorizing PA in cases of severe, concentrated damages, even when all cost of assistance thresholds are not met.[30] For Indian tribal governments, FEMA considers additional factors, including the economic impact of the disaster and demographic factors of the affected population.

3. **Insurance Coverage in Force:** FEMA reduces the estimated cost of PA based on the actual insurance coverage for PA-eligible work. If a facility is uninsured in violation of previous PA award requirements or Stafford Act insurance requirements (see "Insurance

Requirements"), then FEMA will reduce the estimated cost of PA with respect to insurance requirements.[31]

4. **Hazard Mitigation:** FEMA considers how mitigation measures may have reduced the damages. To encourage community resilience efforts, FEMA may authorize PA even when estimated damages do not meet the per capita thresholds if mitigation may have reduced the cumulative losses.

5. **Recent Multiple Disasters:** FEMA considers recent disasters within the disaster-affected jurisdiction to better assess the need for assistance. For example, if a state has exhausted its capacity in response to disasters in the previous 12-24 months, FEMA may consider authorizing assistance even if cost-of-assistance thresholds are not all met.

6. **Programs of Other Federal Assistance:** FEMA considers whether disaster-related needs may be more appropriately met through other federal assistance.

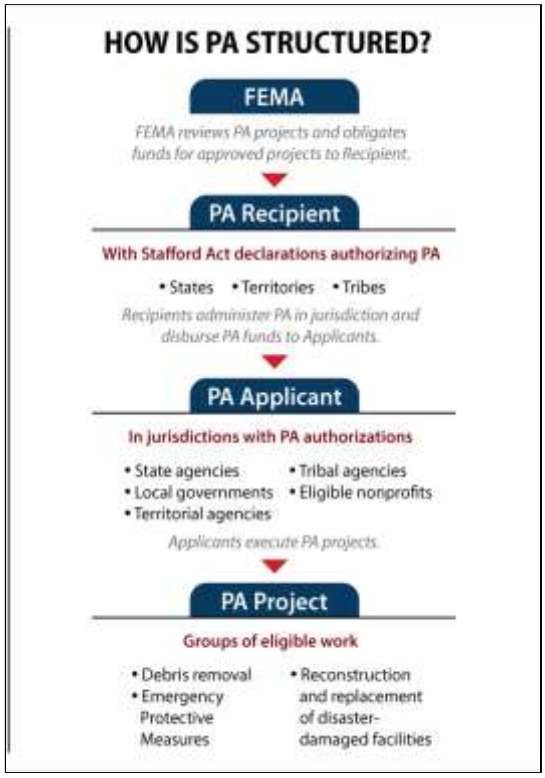
Section 1239 of the Disaster Recovery Reform Act of 2018 (Division D of P.L. 115-254) required FEMA to review and update these factors, particularly the cost of assistance.[32] In December 2020, FEMA published a notice of proposed rulemaking pursuant to this provision that would increase the cost-of-assistance thresholds to account for inflation and income within a jurisdiction.[33] This rulemaking followed several recommendations from the U.S. Government Accountability Office (GAO) that FEMA increase the thresholds or identify a more accurate metric to measure state and local fiscal capacity to respond and recover.[34] If promulgated, the new rule would shift the costs of disasters that do not receive declarations to hazard-stricken states, tribes, territories, and local governments (see "Cost of PA Program" and "Strained Federal, State, and Local Workforce Capacity").[35]

PA Recipients and Applicants

If PA is authorized pursuant to a Stafford Act declaration, the state, tribe, or territory receiving the declaration becomes the PA primary grant *Recipient* (see **Figure 3**).[36] FEMA and the Recipient execute a FEMA-State/Tribal/Territory Agreement (hereinafter FEMA-State Agreement), as appropriate.[37] FEMA-State Agreements detail the understandings, terms, and commitments under which Stafford Act assistance, including PA, is to be provided.[38] The incident period and the PA cost share are among these terms. To receive PA for permanent work, Recipients must additionally have a FEMA-approved hazard mitigation plan in place.[39]

Once the agreement is established, the Recipient administers PA awards for counties that are authorized to receive assistance under the relevant Stafford Act declarations.[40] SLTTs as well as eligible nonprofits may apply for funding for specific projects as *Applicants* (see **Figure 3**). FEMA obligates funds for approved projects to the Recipient, which then reimburses Applicants for approved costs of completed work (for more information, see "Public Assistance Funding Procedures").

Figure 3. Structure of FEMA Public Assistance Program Administration



Source: CRS interpretation of 44 C.F.R. §§206.200-206.209.

Eligibility

Eligibility is a critical element of the PA Program. Because PA funding is not limited for a given incident, entity, or project once it is authorized, eligibility is often the primary constraint on PA spending.[41] Even after PA is authorized for a particular county, municipality, or parish in the presidential Stafford Act declaration or amendment, PA eligibility must be established for each project.

The Stafford Act, federal regulations, and FEMA policy restrict eligibility for PA by four primary criteria: Applicant, facilities, work, and costs. FEMA treats these criteria as an "eligibility pyramid," as the eligibility of each tier depends on the tier below (see **Figure 4**). For example, only facilities legally owned or operated by eligible Applicants may receive PA. To receive PA funding, all four tiers of the pyramid must be met. These eligibility tiers are detailed in the following four sections.

Figure 4. FEMA's PA Program Eligibility Pyramid



Source: CRS interpretation of FEMA, *Public Assistance Program and Policy Guide,* v. 4, effective June 1, 2020, p. 38.

Applicants

The Stafford Act limits entities who may receive PA to SLTTs as well as certain private nonprofits. Eligible nonprofits are those that perform services often or otherwise performed by governmental bodies, defined as *critical services*[42] or *non-critical, "essential" services*[43] available to the general public. Nonprofits providing critical services include educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities.[44] Nonprofits providing non-critical but essential services include community centers, libraries, homeless shelters, food banks, broadcasting facilities, houses of worship, senior citizen centers, and rehabilitation facilities.[45]

For-profit businesses are ineligible for PA. However, eligible Applicants may contract for-profit entities to perform PA-eligible work and receive reimbursement through the PA Program for the costs of the contract.[46] For example, a city eligible for PA debris removal may contract a landscaping company to remove fallen trees from city-owned property. The city could then pay the costs of the contract, and submit those costs to FEMA for reimbursement on a cost-share basis.

Facility

The Stafford Act limits the use of PA for repair and restoration to facilities owned or legally maintained by eligible Applicants.[47] Facilities owned or legally maintained by private non-profits must provide a *critical service* (including power, water, sewer, wastewater, communications, education, and emergency medical care, including those operated by religious organizations) in order to be eligible.[48]

FEMA does not provide PA for permanent work for federal facilities, or for the reconstruction of facilities whose repair falls under a specific federal authority—even if the other federal authority does not ultimately fund the necessary repairs.[49] For example, the reconstruction of certain flood control works may fall under the authority of the U.S. Army Corps of Engineers (USACE) or the Department of Agriculture's Natural Resources Conservation Service (NRCS), and thus would be ineligible for PA.[50] Exceptions may be granted if the federal agency has formally designated an eligible Applicant as the entity legally responsible for a facility.[51]

Work

The Stafford Act limits the provision of PA to work required as a result of the declared incident and located within a designated area of a major disaster or emergency (excepting emergency sheltering and evacuation).[52] FEMA organizes work eligible for reimbursement into three broad types and eight specific categories that may be individually authorized in a declaration:

- Emergency Work

- Category A—Debris Removal
- Category B—Emergency Protective Measures

- Permanent Work
  - Category C—Roads and Bridges
  - Category D—Water Control Facilities
  - Category E—Buildings and Equipment
  - Category F—Utilities
  - Category G—Parks, Recreational, Other

- Management
  - Category Z—Management Costs

Additionally, work must be the "legal responsibility" of an eligible Applicant in order to qualify. In practice, FEMA generally considers SLTTs to have legal responsibility for PA emergency work.[53] FEMA vests facility owners with legal responsibility for permanent work.[54]

Finally, all PA projects must comply with all applicable statutes, executive orders, regulations, and policies. Many statutes, executive orders, and regulations establish requirements to protect the environment as well as historic and archaeologic resources. FEMA reviews PA projects to ensure compliance with applicable environmental and historic preservation requirements.[55] Applicants must also comply with federal procurement requirements.[56]

PA Emergency Work

PA emergency work may be authorized under an emergency or major disaster declaration. It includes efforts undertaken to save lives; protect property, public health, and safety; and reduce or avert the threat of a catastrophe. These activities are grouped into two major categories:

Debris Removal (Category A)—provides direct assistance and reimbursement for the costs of removing debris and wreckage from public and, in more limited cases, privately-owned property, when FEMA determines such work is in the public interest.[57]

Emergency Protective Measures (Category B)—provides assistance for work undertaken to save lives and protect property. Emergency protective measures are arguably the broadest category of work under FEMA's PA Program. Emergency protective measures may include activities ranging from prepositioning resources before a hazard strikes, to search-and-rescue in the immediate aftermath of an incident, to the construction of temporary facilities to undertake emergency medical care, sheltering, food provision, and other essential services for months after the threat has passed.[58]

Direct Federal Assistance

When PA Applicants do not have the capacity to perform eligible work under the PA Program, FEMA may provide direct assistance (referred to as Direct Federal Assistance or

DFA).[59] In these cases, FEMA may task FEMA personnel or other federal agencies with performing work on behalf of the Applicant. FEMA may provide supplies, personnel, and facilities for response activities. The Stafford Act authorizes DFA only for PA emergency work and Individual Assistance, not for PA Permanent Work.[60] DFA is subject to the same cost-share requirements as other forms of PA.[61] FEMA tasks other agencies including the U.S. Department of Defense, and U.S. Department of Agriculture, and the Army Corps of Engineers (USACE) to perform Direct Federal Assistance in directives called mission assignments.[62] Recent examples include mission assignments for the USACE to support efforts to remove 450,000 cubic yards of debris following tornadoes that struck Tennessee in March 2020.[63]

PA Permanent Work

Permanent Work may only be authorized under a major disaster declaration. PA permanent work provides reimbursement for approved costs to repair, restore, reconstruct, or replace the following types of eligible facilities damaged in a declared major disaster:

- **Roads and Bridges** (Category C)—except federal aid roads;
- **Water Control Facilities** (Category D)—including dams and levees that are not under the authority of other federal agencies;
- **Buildings and Equipment** (Category E)—including eligible building contents;
- **Utilities** (Category F)—including gas, power, water, communication, and sewage facilities; and
- **Parks, Recreational, Other** (Category G)—including railways, beaches, piers, ports, and harbors.[64]

Both the Stafford Act and federal regulations place additional restrictions on PA permanent work for nonprofits. Nonprofit Applicants must first apply for a loan from the Small Business Administration (SBA) disaster loan program in order to be eligible for PA permanent work. Only reconstruction costs not covered by an SBA loan are eligible for PA.[65]

PA Permanent Work Beyond Repair and Reconstruction

In certain cases, Applicants may receive PA to pursue projects beyond facility repair and reconstruction. For instances, Applicants may determine that facilities require replacement or relocation. These projects are subject to particular requirements.

Facility Replacement: FEMA may provide PA for the costs of replacement if the costs of repair or reconstruction are estimated to exceed 50% of the estimated costs of replacement.[66]

Facility Relocation: FEMA may provide PA for relocation if relocation complies with other applicable regulations, the original location is subject to repetitive losses (e.g., multiple floods), and the newly proposed project is cost-effective.[67] FEMA may utilize its Benefit-Cost Analysis process to determine cost effectiveness.[68]

The Stafford Act also authorizes PA for specific types of projects when Applicants determine "that the public welfare would not best be served" by repairing, restoring, reconstructing, or replacing the original disaster-damaged facility.[69] In these cases, Applicants may receive capped PA awards for Improved Projects or Alternate Projects (for more information see **Appendix B**).

Improved Projects: Applicants may seek to make improvements to a damaged facility that exceed the requirements of eligible codes or standards. A project that restores the pre-disaster function of a facility and incorporates improvements or changes to the pre-disaster design is an Improved Project.[70] Improved projects receive capped awards.[71] For example, Joplin Schools in Missouri decided to relocate and improve upon Old South Middle School instead of simply rebuilding it through exterior grounds project after a tornado destroyed the school in 2011.[72] Joplin Schools received an award for the new, improved facility (an improved project) that was capped on the basis of the estimated costs to replace Old South Middle School.

Alternate Projects: Alternate projects are projects that do not restore the function of the disaster-damaged facility.[73] For example, following severe storms in Milwaukee, WI, the city determined that the public would be better served by reconfiguring the water distribution system rather than repairing a disaster-damaged pumping station; FEMA approved the alternate project and obligated funds equivalent to the estimates to restore the pumping station to predisaster use towards the alternate project.[74]

Management Costs

FEMA provides PA for eligible management costs that Recipients and Applicants incur while managing PA awards. These costs may include the costs of conducting PDAs, hosting PA Program meetings, site inspections, preparing project worksheets, and managing PA grant program documentation.[75] Under the Stafford Act, FEMA may provide funding for up to 7% of the total PA awarded within a jurisdiction to Recipients for the actual eligible costs they incur for management of all related PA grants.[76] Additionally, FEMA may provide funding for up to 5% of the total PA awarded to an Applicant for actual eligible costs incurred for management of the PA projects they complete.[77] FEMA categorizes these awards as "Category Z."

Costs

Both the Stafford Act and regulations limit the provision of PA to specific costs. Generally, PA may not reimburse costs funded by other means, including other federal agencies or private insurance. The Stafford Act prohibits such as a "duplication of benefits."[78] However, the enactment of the Disaster Recovery Reform Act (DRRA; P.L. 115-254) in 2018 granted the President the authority to waive this requirement if the waiver is in the public interest and does not result in waste, fraud or abuse.[79]

Costs must also meet the definition of "reasonable" established in federal regulations: "a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a

prudent person under the circumstances prevailing at the time the decision was made to incur the cost."[80] FEMA guidance details how the Applicant, the Recipient, and FEMA may assess cost reasonability, including analysis of historical prices and pricing constraints imposed by exigent circumstances.[81]

PA Requirements and Procedures

Cost-Share

The Stafford Act provides assistance on a federalist model that supplements state, local, tribal, and territorial resources on the basis of a cost share. The Stafford Act authorizes FEMA to reimburse at least 75% of the eligible costs of specific types of disaster response and recovery work undertaken by PA applicants.[82] The remaining 25% cost share is the responsibility of the Recipient, though some pass it on to Applicants. State approaches to meeting PA cost shares vary. For example, Pennsylvania pays almost all PA nonfederal cost shares, whereas Oregon requires Applicants to cover the cost share.[83]

Federal regulations describe the means through which Recipients may meet the nonfederal cost share. Regulations prohibit Recipients from using other federal funds to meet the nonfederal cost share, unless those funds are statutorily authorized to meet federal cost-share requirements.[84] The Department of Housing and Urban Development's Community Development Block Grant, for example, is statutorily authorized to meet federal cost-share requirements for other federal programs.[85] Recipients may also apply the value of donated goods, resources, and labor to fulfill the nonfederal cost share.[86]

Several hundred declarations and declaration amendments have included cost-share increases since the enactment of the Stafford Act in 1988.[87] Additionally, Congress has acted to increase the federal cost share statutorily for certain severe incidents.[88]

The Stafford Act authorizes the President to increase the federal cost share when warranted. FEMA may recommend that the President increase the federal cost share in extraordinary circumstances.[89] According to federal regulations, FEMA recommends an increase in the federal cost share to up to 90% "whenever a disaster is so extraordinary that actual Federal obligations under the Stafford Act, excluding FEMA administrative cost," meet or exceed an annually-adjusted threshold for the state, tribe, or territory (in CY2021, $151 per capita).[90] FEMA may also take into account other disasters in the affected area during the preceding twelve months.[91] In particularly severe situations, FEMA may recommend an increase in the cost share of PA emergency work to 100% for a limited period of time, irrespective of the estimated damages.[92] Such adjustments sometimes result in differing cost shares for permanent and emergency work.

The Stafford Act also authorizes the President to increase the federal cost share for permanent work up to 85% when Recipients undertake a range of mitigation measures.[93] Measures may include the adoption and enforcement of the most recent building codes and participation in the

National Flood Insurance Program's (NFIP's) Community Rating System for flood-abatement measures.[94]

Finally, the Stafford Act authorizes FEMA to advance the nonfederal cost share to Applicants or Recipients if warranted due to concurrent major disasters or particularly overwhelming incidents.[95]

Insurance Requirements

The Stafford Act requires some Applicants to carry insurance in order to "protect themselves … [and] … supplement or replace government assistance."[96] For example, Applicants that receive PA to repair or replace disaster-damaged facilities must obtain and maintain insurance "of such type and extent" necessary to protect against future loss to the property.[97] Applicants in identified flood hazard zones must secure insurance through the NFIP[98] or other insurance as required by the Applicant's state insurance commissioner.[99] The Stafford Act also limits PA for uninsured, flood-damaged facilities in violation of the National Flood Insurance Act. Such properties generally may receive PA only for damages that exceed estimated insurance proceeds had the facility been properly covered.[100] FEMA details insurance requirements in regulations and guidance.[101]

Public Assistance Funding Procedures

PA projects are reimbursed according to procedures that vary according to the size and type of project. In all cases, PA funds pass from FEMA to the Recipient to the Applicant. For this reason, the Recipient is sometimes referred to as a "pass-through entity."[102]

FEMA obligates PA awards to the Recipient based on either the actual costs of completed work, or a project estimate if the work has yet to be completed.[103] A disaster-stricken county may have already incurred and paid for the costs of debris removal by the time FEMA approves the project, whereas reconstruction projects may only be in the early phases of damage and repair estimation when a project is approved. After FEMA obligates funds, the Recipient then disburses funds to the Applicant for approved costs (for more information see **Appendix B**).

Applicants may receive two primary types of awards—awards based on actual costs (hereinafter standard procedures, also referred to as "406 procedures") and capped awards (which include Section 428 Alternative Procedures; hereinafter "Alternative Procedures").

Larger PA projects (those that exceed $132,800 in FY2021) are funded on a reimbursement basis under either standard or Alternative Procedures.[104] For this reason, Applicants generally need nonfederal funds to pay for eligible costs before they may request and receive reimbursement.[105] In certain cases, the requirement that Applicants cover initial costs before receiving reimbursement has burdened some Applicants, particularly those facing catastrophic losses (as reported, for example, for Applicants in New Orleans following Hurricane Katrina and in Puerto Rico following the 2017 hurricanes).[106]

PA Standard Procedures—Awards for Actual Costs

Most PA projects to date have been processed under standard reimbursement procedures. Under standard procedures, Applicants receive reimbursements for large projects (set at $132,800 in FY2021) on the basis of the actual costs of approved work.[107] For smaller projects, Applicants may receive funds as soon as a project is obligated. For larger projects, Applicants pay for initial costs, and then receive reimbursement based on the applicable cost share (for example, for 75% of the costs).

During the course of a large project, the Applicant may encounter delays, cost overruns, or the need to modify the scope of work.[108] For any of these reasons, an Applicant may determine that the project's scope of work must substantively change after the project has been approved and obligated.[109] For example, the City of Columbia, SC identified the need to change the scope of work of an obligated project when the City discovered previously undetected damage to its Metro Wastewater Treatment Plant following severe storms in October 2015.[110] FEMA regulations permit Applicants completing projects under standard procedures to change the scope of work to include new costs if the costs are eligible and necessary to complete the project, and if FEMA gives prior approval.[111] In such a case, the Applicant submits a description and justification of the change in the project's scope of work (including any cost overruns) for the Recipient and FEMA's review.[112] If approved, FEMA obligates the additional funds to the Recipient.

The use of standard procedures may provide certain benefits. The allowance of project modifications and reimbursement on the basis of actual costs (including overruns) may mitigate the Applicant's financial risk. The use of standard procedures also affords FEMA the opportunity to conduct timely oversight when reviewing project changes and implementation.

The use of standard procedures may also present challenges. Each significant change in the scope of work requires FEMA approval. FEMA, GAO, and OIG have concluded that standard procedures demand significant federal time and resources due to the complexity of the process for project review, revision, and reimbursement.[113] Additionally, the use of standard procedures may not incentivize Applicants to control costs, as cost overruns may be eligible for additional assistance.

PA Alternative Procedures and Capped Awards

In contrast to awards made for actual costs, Applicants may receive capped awards for certain projects. FEMA provides capped awards under Alternative Procedures authorized under Stafford Act Section 428 (hereinafter Alternative Procedures) as well as for improved or alternate projects (for more information see **Appendix B**).

Enacted in the wake of Hurricane Sandy, SRIA authorized Alternative Procedures with the expressed aim to reduce costs, expedite delivery of assistance, reward timely and adept completion of PA projects, and increase the PA Program's flexibility.[114] The 113th Congress

authorized Alternative Procedures as a pilot program and allowed FEMA to waive the standard rulemaking process in order to expeditiously implement the new procedures.[115] Absent rulemaking, FEMA has issued several iterations of guidance on the Alternative Procedures Pilot Program (see **Appendix C**).[116] As of March 2021, the program continues as a pilot, though FEMA guidance treats Alternative Procedures "as the first option considered for all large permanent work projects in order to ensure the ability of Applicants to drive their own recovery."[117]

As of August 21, 2020, Applicants had completed projects under Alternative Procedures in 54 states and territories, according to FEMA data. This accounted for approximately 28% of obligated PA funds since the implementation of Alternative Procedures in 2013.[118]

Alternative Procedures include several modifications to standard procedures for large permanent work projects (see **Table 2**). Most notably, awards under Alternative Procedures are capped based on up-front and mutually agreed-to cost estimates of the work to be done. Applicants may use any excess funds for approved purposes (for example, mitigation) if estimates exceed the actual costs of a completed project. However, Applicants are responsible for all costs that exceed the agreed-upon estimates (see **Figure 5**). This change transfers the risk of cost overruns or project delays entirely to the Applicant. Under standard procedures, FEMA and the Applicant or Recipient share the risk, according to the PA cost share.

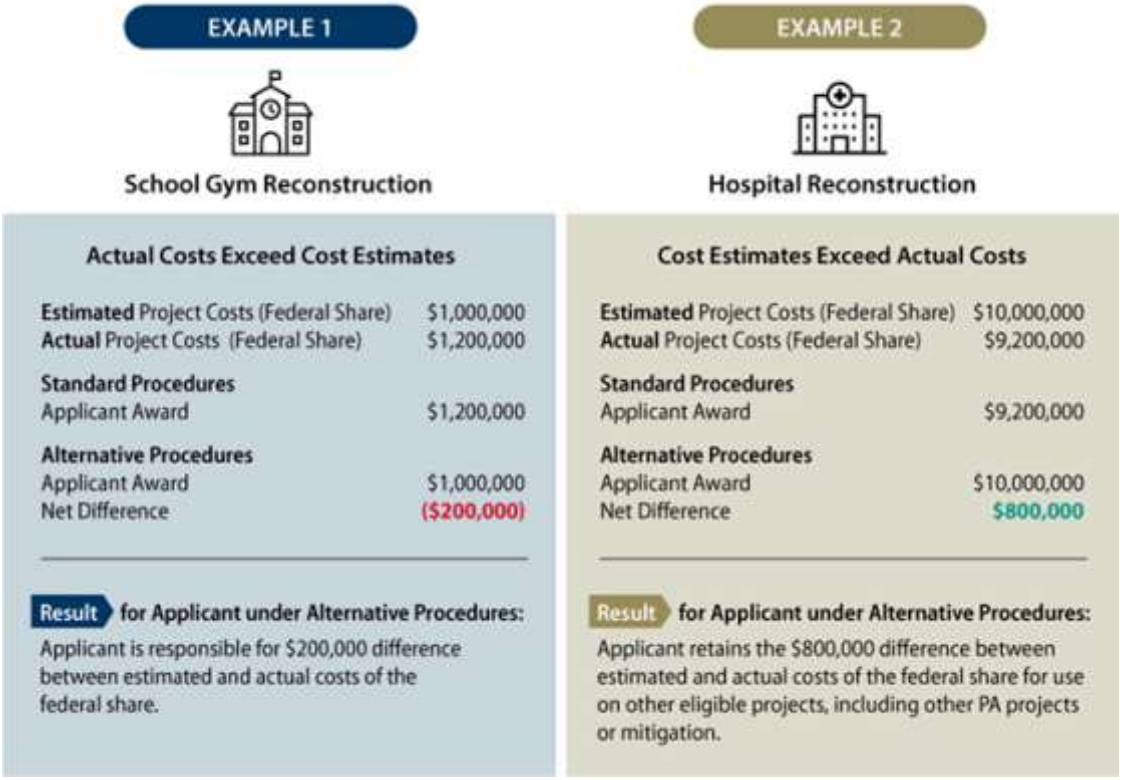
Table 2. FEMA's Public Assistance Standard Procedures vs. Alternative Procedures

Topic	Standard Public Assistance Procedures ("406 Procedures")	Alternative Public Assistance Procedures ("428 Procedures")
Award	Awards are based on costs of actual work.	Awards are capped on the basis of estimates of the cost of eligible work agreed to by FEMA, the Recipient, and Applicants. Fixed-cost estimates may not be amended after agreement is reached, except if insurance proceeds or failure to obtain and maintain insurance alters the estimated cost of the project. Certain cost estimates are validated by a third-party expert panel.

Cost Overruns	Applicants may receive PA on a cost-share basis for eligible costs that exceed initial project estimates.	Applicants are responsible for the difference between the cost of estimated and actual work.
Excess Funds	Applicants may not access funds remaining if project estimates exceed actual project costs.	Applicants may use award funds remaining after the completion of actual work on eligible work, including mitigation and other PA projects.
Consolidated Projects	Standard procedures require Applicants to use funds for the project documented in the original scope of work.	Applicants using Alternative Procedures may consolidate funds from multiple fixed-cost PA awards across multiple facilities or projects. For example, an Applicant may use funds from a project that runs under budget to fund a project that runs over budget.
Alternate Projects (eligible projects beyond the reconstruction or replacement of disaster-damaged facility)	Prior to 2018, PA standard procedures reduced funding for alternate projects by 10%. However, the Disaster Recovery Reform Act of 2018 (P.L. 115-254) eliminated this reduction upon its enactment in October 2018.	Applicants using Alternative Procedures may complete alternate projects using funds from a fixed-cost estimate without any reduction in funding.

Sources: Stafford Act Section 428; 42 U.S.C. §4189f; 44 C.F.R. §206.204(e); FEMA, *Public Assistance Alternative Procedures for Permanent Work Pilot*, version 4, FEMA Recovery Policy FP 104-009-7, August 19, 2019, https://www.fema.gov/media-library-data/1568910139061-36ef984e91a480f99341e6836ac27ae8/PAAP_Perm_Work_Guide_V4_2019_508.pdf.

Figure 5. Funding Scenarios for Large Projects Under Alternative and Standard Public Assistance Procedures



Source: CRS analysis of Stafford Act Section 428(e)(1)(A) and (D).

Notes: Large projects are those that exceed a certain project threshold (e.g., $132,800 for FY2021). FEMA, "Per Capita Impact Indicator and Project Thresholds," https://www.fema.gov/public-assistance-indicator-and-project-thresholds.

The use of Alternative Procedures and other capped awards afford certain opportunities to Applicants and FEMA:

- Applicants have the ability to modify facilities rather than restoring a disaster-damaged facility to its predisaster use.[119]
- Applicants using Alternative Procedures do not need to track costs with the same granularity as required under standard procedures, which may reduce the grant management burdens for both Applicants and Recipients.[120]
- FEMA may be able to commit fewer resources to project oversight and review after Alternative Procedures projects are obligated, as scope of work changes are not permitted.
- FEMA may also control federal expenses by avoiding fiscal exposure to cost overruns and project delays.
- Applicants using Alternative Procedures may retain any remaining funds if estimates exceed actual costs and use for other eligible projects. This feature is not available for alternate or improved projects.[121]

These capped awards also present a number of challenges.

- As noted earlier, capped awards transfer the risk of cost overruns or project delays entirely to the Applicant (see **Figure 5**).
- GAO has found that Alternative Procedures have sometimes resulted in significant recovery delays due to the time-consuming process required to establish an agreement between FEMA, Recipients, and Applicants on project cost estimates.[122]
- These recovery delays require significant FEMA involvement.

For these reasons, Alternative Procedures may not, in practice, save federal resources and control spending as intended. These challenges are discussed in greater detail in the Alternative Procedures" section under "Congressional Considerations," below.

Building Standards

In addition to the funding mechanisms detailed above, the PA Program requires that all PA-eligible work incorporate certain minimum building standards. DRRA amended the Stafford Act to require that PA permanent work projects be reconstructed according to

> the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purposes of protecting the health, safety, and general welfare of the facility's users against disasters….[123]

FEMA guidance generally interprets this provision as a requirement for the construction of many PA projects to conform to the most recent published International Code Council standards (e.g., the International Building Code) or other standards established by national professional associations (e.g., the American Society of Civil Engineers).[124] According to this guidance, PA reconstruction projects for roads, bridges, buildings, electric power, potable water and wastewater facilities for disasters declared on or after December 20, 2019, must be built in accordance with the most recently published hazard-resistant building codes, regardless of pre-disaster condition or design.[125] In some cases, Applicants undertaking work for certain earlier disasters may be eligible to elect to follow the same consensus-based codes.[126] Other projects (e.g., for other facilities or earlier disasters) must be completed according to local building code standards that, at the time of the disaster, were appropriate for the use of the facility, reasonable, enforced, and uniformly applied to similar facilities.[127]

Mitigation Activities

Applicants may use PA for mitigation projects whenever permanent work is authorized and if the project directly reduces the potential of future damage.[128] Typically, PA is obligated for mitigation projects only for damaged parts of a PA-eligible facility, though FEMA may consider other projects on eligible facilities.[129] Examples of mitigation projects include elevating flood-prone

structures, installing new drainage facilities along roads, and constructing floodwalls. FEMA will only approve mitigation measures determined to be cost effective.[130] This criteria may be met if one of the following conditions applies:

1. the project cost does not exceed 15% of the cost of the restoration of the disaster-damaged facility (prior to any insurance reductions);[131]
2. the mitigation measure is listed in FEMA's Cost-Effective Public Hazard Mitigation Measures,[132] and the measure does not exceed 100% of the eligible repair cost of the relevant disaster-damaged facility (prior to any insurance reductions); or
3. the mitigation project appears to be cost-effective according to FEMA's Benefit-Cost analysis or comparable methodology.[133]

According to FEMA data, approximately $8.5 billion dollars have been obligated for PA mitigation projects from 1999 to August 21, 2020.[134]

PA Funding

PA awards and program operations are provided through the DRF. Managed by FEMA, the DRF is the primary source of funding for Stafford Act assistance.[135] DRF funding, if available, may be used for past, current, and future incidents. DRF appropriations are "no-year" funds that may be drawn for authorized purposes at any time until expended. Generally, Congress does not appropriate funds for the DRF for a specific disaster, year, or program, including Public Assistance.

In 2012, FEMA launched OpenFEMA, an online data hub that includes data on historical PA obligations.[136] The enactment of DRRA in 2018 additionally required FEMA to publish a range of data on disaster relief programs and the DRF, including obligations data, in order to promote agency accountability.[137]

The following section utilizes publicly available data from OpenFEMA as well as data provided directly to CRS from FEMA to identify trends in PA obligations. This analysis does not include obligations for the unique and ongoing COVID-19 pandemic (see **Appendix A**, "Snapshot of PA for COVID-19"). The assembled data comprise the most comprehensive available data set and shed light on the location, duration, and purpose of PA projects. However, at the time of publication, CRS cannot independently verify the data sets due to several factors, including that PA project documentation is not readily available. Additionally, CRS cannot reconcile disparities between different FEMA datasets on PA obligations.

DRF Obligations for PA

On average, Public Assistance has drawn more from the DRF than any other Stafford Act function (see **Figure 6**). PA's share of DRF obligations is more than twice that of the next largest program, Individual Assistance, when obligations for the unique and ongoing COVID-19

pandemic are excluded. Notably, the share of DRF obligations committed to PA is generally increasing (see **Figure 7**). PA accounts for an average of 48% of DRF obligations between FY2001 and FY2010, and grows to an average of 60% between FY2011 and FY2020.

Figure 6. Disaster RF Obligations by Category, Fiscal Years 2000-2020

According to FEMA Data

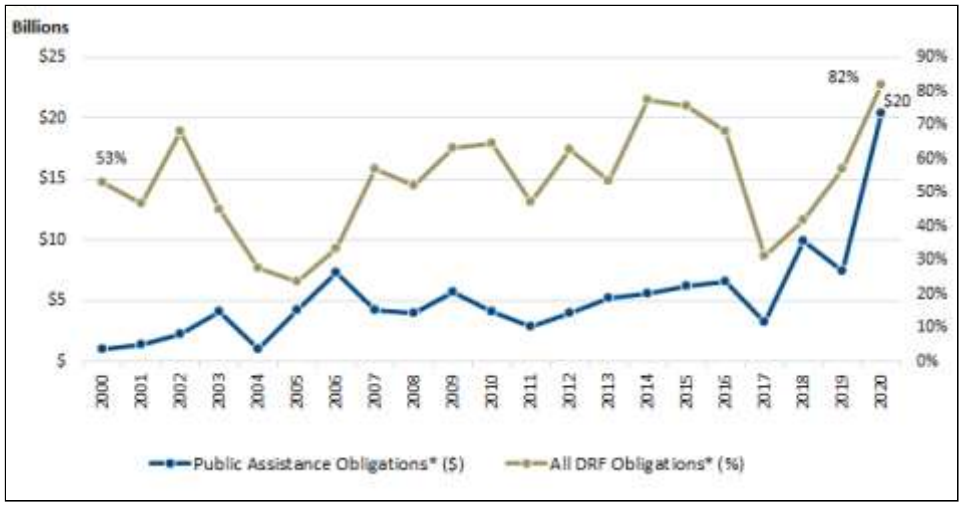


Source: CRS analysis of FEMA data on DRF Obligations, FY2000-FY2020 provided to CRS by FEMA Office of Congressional and Legislative Affairs.

Notes: This figure reflects PA and DRF obligations less obligations for the COVID-19 pandemic in FY2020, as reported in FEMA, *Disaster Relief Fund Monthly Report,* November 6, 2020.

Figure 7. FEMA's Public Assistance Program Obligations, Fiscal Years 2000-2020

Dollars and as Percentage of all DRF Obligations, According to FEMA



Source: FEMA data on DRF Obligations, FY2000-FY2020, provided to CRS by FEMA Office of Legislative and Congressional Affairs.

Notes: This figure reflects PA and DRF obligations less obligations for the COVID-19 pandemic in FY2020, as reported in FEMA, *Disaster Relief Fund Monthly Report*, November 6, 2020. Note that PA obligations often rise in the fiscal years following a particularly severe event due in part to the pace of obligating funds for long-term reconstruction projects and the timing of the fiscal year. For example, PA obligations for Louisiana's Hurricane Katrina, which made landfall in August 2005, peaked in FY2006, which lasts from October 1, 2005 to September 1, 2006.

Scale of PA Expenditures

PA obligations totaled more than $110 billion from FY2000-FY2020 and have increased in the past three years. As shown in **Figure 7**, PA obligations tend to rise in the years following catastrophic disasters such as Hurricanes Katrina, Rita, and Wilma in 2005 and Hurricanes Harvey, Irma, and María and the California wildfires in 2017, as FEMA approves and obligates PA projects for response efforts and long-term reconstruction projects. FY2020 reflected the largest obligations for PA yet—more than $20 billion—even when excluding COVID-19 expenditures. This spike partly reflects two exceptionally large obligations (totaling more than $11 billion) for Hurricane María recovery in Puerto Rico that will support reconstruction of territorial educational and electrical infrastructure.[138]

The large and growing expense of PA may be attributed to several factors. First, neither the Stafford Act nor federal regulations restrict the size of PA awards by incident, Recipient, Applicant, or project.[139] PA is restricted by eligibility, not budgetary or programmatic funding caps (see "Eligibility," above).[140] While federal regulations do establish time limitations during which PA projects must be completed, extensions are frequently granted.[141]

Second, under standard procedures, FEMA reimburses Applicants on the basis of the actual costs of PA projects, so cost overruns may increase the size of PA awards. The PA project approval process enables FEMA to authorize or deny PA for specific costs, but only on the basis of eligibility.

Finally, PA is an extensive, complex program. Projects range from emergency evacuations to the reconstruction of state-wide infrastructure systems. The application process involves more than a dozen steps[142] and the involvement of multiple FEMA officials in addition to representatives of the Recipient, Applicant, and, in some cases, other federal agencies or private contractors. FEMA officials explain that projects commonly require months to scope and years to complete, requiring significant financial, human, and material resources.[143] The costs of PA reflect, in part, this complexity and scope.

As hazards that receive major disaster declarations and PA authorization increase in frequency and severity so, too, do PA costs. Population growth and property development in disaster-prone areas may increase PA obligations per incident, as more communities and facilities eligible to receive PA are placed in harm's way.[144] Additionally, scholars, industry experts, and federal officials have concluded that disaster relief spending, including PA, is increasing and will continue to increase due to the compounding impacts of climate change (see "Cost of PA Program").[145]

Trends in PA Expenditures

Obligations by Category

Permanent work accounted for more than half ($62 billion, or 57.4% of total) of PA obligations for projects from FY2000 through FY2020 (see **Figure 8**). Just under 40% of PA obligations ($40 billion, or 37.4% of total) supported emergency work projects. The remainder ($5.7 billion,

or 5% of total) reflects obligations for PA management costs, which are awarded as a proportion of PA project obligations. The category of work claiming the largest share of obligations was Category B—Emergency Protective Measures ($24.5 billion, or 23% of total). This trend may continue as obligations accrue for Emergency Protective Measures authorized in response to the COVID-19 pandemic, which are not included in these figures. COVID-19 PA obligations (entirely for Emergency Protective Measures) totaled more than $6 billion in FY2020 (see Appendix A).[146]

Figure 8. FEMA's Public Assistance Program Obligations by Category, Fiscal Years 2000-2020

According to FEMA Data, as Share of Total Obligations



Source: CRS analysis of OpenFEMA, "Public Assistance Funded Projects—Details," as of December 9, 2020. **Notes:** Reflects sum of "federal share obligated" by "damage category code" according to FEMA designations, less obligations for COVID-19 pandemic as reported in the source data through the "biological incident" tag. CRS cannot verify the accuracy of FEMA data.

Obligations by Hazard Type

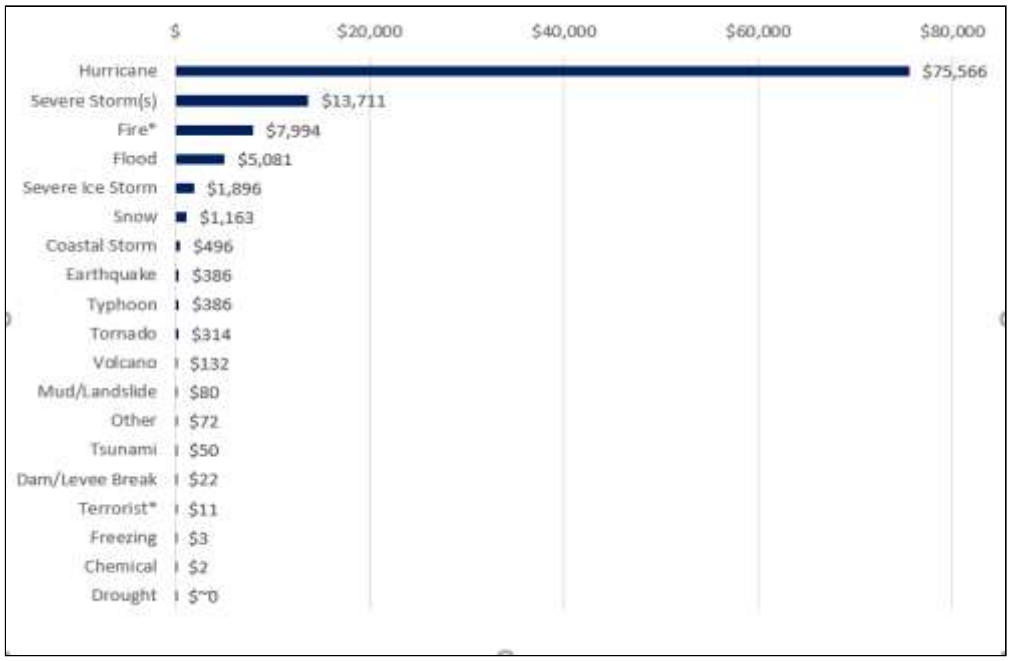
PA is an "all-hazards" program available to Applicants following a range of incidents including environmental hazards, terrorist attacks, and industrial accidents. However, from FY2000-FY2020, the largest portion of program dollars supported response and recovery from hurricanes ($75.6 billion, or 70% of total) as well as other flood-related events like severe storms ($13.7 billion, or 13% of total), floods ($5.1 billion, or 5% of total), and coastal storms and typhoons (see **Figure 9**). Fires (including wildfires and fires from certain explosions) also account for significant expenditures ($8.0 billion, or 7.5% of total).[147] Obligations for other weather- or climate-related emergencies and major disasters (such as snow events, earthquakes, tornados, and drought) each account for 1% or less of cumulative PA spending.

Technological failures, industrial accidents, and acts of violence similarly accounted for a small fraction of overall spending. Terrorist attacks, including costs for the September 11, 2001 attacks in New York and New Jersey, accounted for 4.3% of spending ($4.8 billion) from FY2000-FY2020.[148] A single chemical spill accounted for 0.0014% of spending. "Other" events including

power outages, the Columbia Space Shuttle explosions in Texas and Louisiana, a bridge collapse, and a fertilizer plant explosion each accounted for less than 1% of funding.

Figure 9. FEMA's Public Assistance Program Obligations by Hazard, Fiscal Years 2000-2020

According to FEMA Designation of "Incident Type" (in millions of dollars)



Source: CRS analysis of OpenFEMA, "Public Assistance Funded Projects—Details," as of December 9, 2020. Excludes obligations for COVID-19. CRS cannot verify the accuracy of FEMA data.

Notes: Reflects sum of "federal share obligated" by incident type, less obligations for COVID-19 pandemic as reported in the source data through the "biological incident" tag. Categorization reflects FEMA's designation of "incident type," which may include inconsistencies.

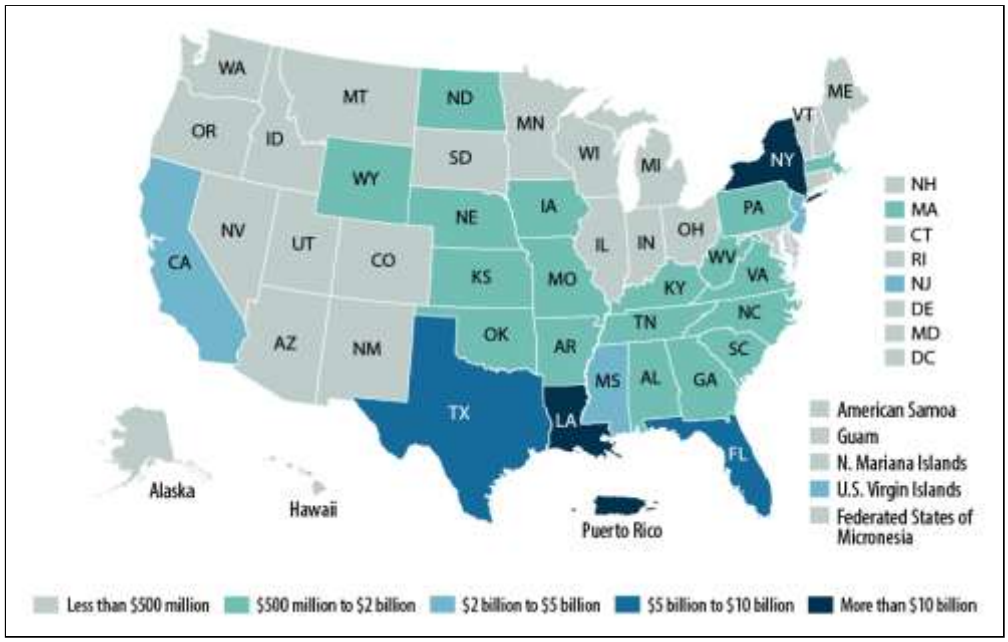
* FEMA data categorizes costs for the 9/11 terrorist attacks in New York and New Jersey as "Fire". If categorized as "Terrorist," like costs for 9/11 terrorist attacks in Virginia, then the total costs for "Terrorist" are approximately $3.2 billion and for "Fire" are approximately $4.8 billion.

Obligations by State

The geography of PA obligations reflects spending by hazard and is concentrated around the Gulf coast (see Figure 10). Louisiana, New York, Florida, Puerto Rico, and Texas account for the greatest expenditures owing in part to their recoveries from major hurricanes, as well as New York's 9/11 terrorist attacks. California follows due largely to damages from recent wildfires. Many other states and territories, by contrast, have received far fewer PA dollars.

Figure 10. FEMA's Public Assistance Program Obligations by State and Territory, Fiscal Years 2000-2020

According to FEMA Data



Source: CRS analysis of OpenFEMA, "Public Assistance Funded Projects—Details." Reflects sum of "federal share obligated" by state.

Note: Reflects sum of "federal share obligated" by state, less obligations for COVID-19 pandemic as reported in the source data through the "biological incident" tag. CRS cannot verify the accuracy of FEMA data.

Congressional Considerations

Congress has addressed the PA Program repeatedly in hearings and legislation over the past 10 years. Additionally, GAO and the Office of the Inspector General (OIG) of the Department of Homeland Security (DHS) have both conducted numerous overviews of the PA Program in the past decade.

Seven persistent issues from these exchanges are summarized in the following sections. Additional PA policy issues that have been identified but exceed the scope of this report include

- cancelled, disputed, improper, or noncompliant federal and local contracts for disaster recovery work;[149]
- delayed, partial, or improper federal payments and reimbursements;[150]
- inconsistent cost-share adjustments;[151]
- deficiencies in the logistical management and distribution of PA Direct Federal Assistance, including emergency commodities, personnel, and resources;[152]
- delays and opacity with the Public Assistance Appeals process;[153] and
- management controls needed for PA informational technology.[154]

Cost of PA Program

Congress may consider the recent discussion of PA expenditures,[155] given their scale as well as the general lack of restrictions on overall PA spending (see "PA Funding"). Further, multiple federal budget and oversight agencies have cautioned that climate change and population growth in high-risk areas may create further federal fiscal exposure through PA.[156] Congress and FEMA have recently acted to control PA spending, authorizing Alternative Procedures and support for insurance coverage and mitigation investments, as discussed below.

The Alternative Procedures pilot program enacted in SRIA modified PA procedures partly to control costs of individual PA projects (for more information see below, "Alternative Procedures").[157] Whether Alternative Procedures have actually reduced costs remains unclear.

FEMA and Congress have also promoted mitigation and insurance coverage among PA Applicants in part to reduce future liability through the PA Program. The enactment of DRRA in 2018 included several provisions to promote mitigation, partly as a means to reduce post-disaster recovery expenditures (see "Promoting Resilience Through PA").[158] FEMA's Risk Rating 2.0 will update flood risk assessments and potentially broaden NFIP insurance requirements; FEMA announced it will be effective in October 2021.[159] This change may increase coverage among PA-eligible facilities, thereby reducing the amount of future uninsured damages eligible for PA. Given that PA obligations are currently concentrated in flood-related events (see **Figure 9**), the consequences of these new requirements could be significant. These innovations may also respond to the concern that PA policies—by providing PA for uninsured damages—may disincentivize Applicants from undertaking mitigating measures or purchasing sufficient insurance.[160]

Congress may consider proposals to address PA spending levels. PA expenditures are partly determined by two critical factors: whether PA is authorized for a given incident, and the federal cost share for that incident. FEMA recently initiated rulemaking to increase the damage thresholds used to evaluate requests for PA, as recommended by GAO and analyzed by the Congressional Budget Office (CBO).[161] FEMA estimates that the proposed rule, had it been finalized, would have reduced the number of major disaster declarations authorizing PA by approximately 27% and reduced the total amount of PA provided by several billion dollars over the rule's study period.[162] As a result, more disaster relief costs may be borne by nonfederal entities.[163] PA expenditures are currently concentrated in areas affected by the most costly disasters, and efforts to increase the thresholds to warrant PA may further concentrate PA expenditures (see **Figure 10**).[164] FEMA anticipates that the proposed rulemaking, if enacted, may allow FEMA to focus resources on more severe events rather than smaller disasters.[165] States, as defined by the Stafford Act, could deploy or develop their resources to independently manage smaller incidents.[166]

If Congress seeksto further reduce PA expenses, Congress could consider additional ways to shift a greater share of the costs of disaster recovery back to nonfederal entities, for example, by reducing the minimum federal cost share of PA, encouraging the use of state and territorial

rainy day funds and purchase of reinsurance or catastrophe bonds, or implementing a deductible that each Recipient must meet before PA is authorized.[167]

Congress may consider the extent to which nonfederal governments already absorb the rising costs of disasters when reviewing proposals to reduce PA spending.[168] Recent research has shown that SLTT spending on response and recovery is highly variable and inconsistently tracked.[169] In 2003, FEMA's Emergency Management Institute estimated that 3,500-3,700 incidents per year are managed without requests for federal assistance.[170] Congress may consider in particular the consequences for state and local budgets strained by the COVID-19 pandemic,[171] as well as the consequences for communities forgoing federal assistance that are smaller, rural, or have fewer resources.[172]

Conversely, Members of Congress who wish to provide further support to nonfederal governments through PA may consider raising the minimum federal cost share in the Stafford Act above 75% for all or some PA costs (for example, for emergency work).

If Congress does seel to reduce federal cost support for disaster recovery, Congress may consider providing additional funds for mitigation projects to help reduce losses and outlays at every level of government to mitigate the resulting burden to nonfederal governments (see section on "Promoting Resilience Through PA").[173]

Oversight Challenges

Congress has expressed persistent interest in the oversight of the PA Program. GAO and the DHS OIG have found that FEMA's rapid response to disasters and emergencies may undermine robust oversight and fraud prevention among PA Applicants.[174]

One factor that contributes to the challenges of PA oversight is the use of contractors to execute eligible work. The House Committee on Oversight and Reform reported that 90% of PA funds reimburse Applicants for procured goods or services.[175] In these cases, federal funds move between four discrete entities: FEMA obligates funds to the Recipient, the Recipient reimburses the Applicant, who has paid a contractor for the cost of completed work. Tracking PA spending and compliance through so many transactions over several years requires considerable effort. In the past several years, the DHS OIG identified more than a dozen FEMA awards with contract compliance issues, including unreasonable costs and deficient oversight.[176]

Additionally, the DHS OIG has identified weaknesses in FEMA's enforcement of the requirement that PA Applicants obtain and maintain insurance for PA-funded projects.[177] The OIG recommended that FEMA improve oversight of insurance coverage and insurance proceeds for PA-funded facilities through enhancements to PA information systems.[178] Congress may monitor FEMA's progress on implementing these recommendations.

In 2018, Congress acted to increase the transparency of the PA Program in DRRA. As required by DRRA, FEMA provides publicly available data on PA obligations.[179] As of October 2019, FEMA planned to publish information on Applicant contracts over $1 million, also required by

DRRA.[180] However, PA obligations may not clearly reflect the status of PA projects and broader recovery efforts. For example, project funding may be fully obligated long before the completion of the on-the-ground reconstruction work. Congress may consider requesting other recovery information that is currently not publicly or readily available (e.g., project progress reports, project appeals documents, facility operability metrics). However, Congress may also consider the administrative burden that more comprehensive reporting requirements may put on FEMA, Recipients, or local officials, and how such a volume of complex data may be utilized to conduct oversight.

Promoting Resilience Through PA

Some observers have raised concerns that PA may increase the casualties and costs of future hazards by encouraging reconstruction in disaster-prone areas. For example, CBO has found that federal disaster assistance may subsidize growth in disaster-prone areas by shielding inhabitants, including PA Applicants, from the full costs of response and recovery.[181] Before recent legislative changes, some Members of Congress raised concerns that PA may provide funding to rebuild facilities to predisaster condition—even if those facilities were subject to weak building codes and/or situated in disaster-prone areas. As Representative DeFazio explained

> As I have noted many times before, it is nonsensical that the Federal Government pays to rebuild communities after a disaster back to inadequate standards only to have those facilities destroyed in another disaster with the Federal Government once again coming in and building back to the original standard as opposed to a more resilient and more robust standard. It is time to get smarter about how we respond and how we rebuild after disasters.[182]

The enactment of DRRA in 2018 revised Stafford Act authorities to promote resilience in federally-funded structures.[183] First, DRRA authorized the provision of PA to pay for the costs required to adopt, implement, and enforce building codes on PA projects—supporting resilience and hazard-resistant building across a community.[184] DRRA also authorized FEMA to provide PA to reconstruct disaster-damaged facilities in accordance with "the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs…."[185]

These enhanced authorities may reduce disaster costs and casualties over time, particularly given the risks of future damages exacerbated by climate change.[186] The Multi-Hazard Mitigation Council estimates that each federal grant dollar invested in disaster mitigation projects may save an average of six dollars in post-disaster reconstruction costs.[187] For this reason, the implementation of DRRA may reduce future PA expenditures for response and recovery costs. FEMA has begun implementing many DRRA amendments to promote resilient PA-funded reconstruction, including the ability to receive PA to rebuild to the latest hazard-resistant codes.[188]

Congress may consider additional options to promote mitigation through PA, particularly because some nonfederal mitigation projects have been reduced as a result of COVID-19 outlays.[189] For example, Congress could consider increasing the allowable cost share for PA mitigation projects.[190] Alternatively, Congress may consider whether to impose restrictions on PA in areas prone to nonflood hazards (the Stafford Act already restricts PA in high-risk flood zones.)[191] Congress may also review FEMA's restrictions on the relocation of facilities sited in disaster-prone areas.[192] Some nonfederal officials may be concerned that mitigation is costly, overly burdensome, or may detract from other economic development goals.[193] Congress may also consider whether FEMA's other mitigation programs are more effective vehicles for mitigation policies and funds.[194]

Project Execution Delays

Recovery delays associated with FEMA's multi-step PA application and review process has attracted some concern. Some Recipients and Applicants report that the program is overly complex and time-intensive, and find that changing guidance impedes project execution.[195]

As noted earlier, regulations require that emergency work projects be completed within 6 months and permanent work within 18 months from the date of declaration, though Recipients and FEMA may grant extensions.[196] Publicly available data suggests that PA projects commonly exceed the timeframes established in regulations. For example, FEMA data on permanent work projects including mitigating measures reflects that approximately 60% of project closeout dates exceeded the 18-month deadline.[197] Additionally, GAO and the DHS OIG have documented PA project delays multiple times, particularly following severe events.[198]

In 2017, FEMA implemented a new "National Delivery Model" to streamline and improve the complicated, multi-step PA grant review process and improve workforce readiness.[199] The new system aimed to expedite and standardize PA project review by enlisting experts to formulate and process PA projects throughout the United States. Among the features of the new system is a program delivery manager who serves as a single point of contact for Applicants, a new digital information system for PA grants (the PA Grants Portal),[200] and the centralization of many PA project scoping, costing, and review steps in Consolidated Resource Centers (CRCs; four are in operation nationwide).[201] After testing the National Delivery Model from 2015 to 2017, FEMA implemented the system in November 2017.[202]

GAO found that some Applicants reported these initiatives increased the ease of the PA application process, particularly the availability of digital documentation submission and a single FEMA point of contact.[203] However, others reported persistent problems with the model, including delays with FEMA project reviews and reimbursement processing.[204] GAO subsequently recommended, and FEMA implemented, multiple improvements to its PA information technology system.[205] FEMA has also announced additional initiatives to expedite PA, including simplified PA applications, remote damage assessments, and simplified "self-certification" for Applicants completing "small projects."[206] Some of these initiatives have already

proved successful, according to FEMA; for example, the small project certification process reportedly reduced review time by 50%.[207] FEMA employed a reportedly simplified PA application for COVID-19 costs, and expanded the use of remote disaster assessments during the pandemic.[208]

Congress may consider additional options to expedite project execution. Some have proposed reviewing the PA reimbursement process to remedy cash flow constraints that stall reconstruction progress while Applicants await reimbursement.[209] One option includes broadening access to cash advances, which are currently only permitted in limited circumstances for large projects (those exceeding $132,800 for FY2021).[210] FEMA does permit Applicants completing small projects to access funds as soon as they are obligated, reducing complications and delays (see **Appendix B**).[211] However, Congress may consider that advancing funds could cause additional oversight challenges, as may other efforts to streamline PA application review. State and local stakeholders have also proposed that FEMA permit PA for management costs to be shared across disasters, reducing documentation burdens for Recipients and review time for FEMA.[212] Additionally, remedies for federal, state, and local capacity shortfalls may reduce project completion times and expedite recovery (see next section on "Strained Federal, State, and Local Workforce Capacity").

Strained Federal, State, and Local Workforce Capacity

The federalist design of the PA Program requires considerable involvement of both federal and SLTT officials throughout project execution. Applicants must understand program expectations, eligibility requirements, and rules and manage large-scale, multi-year projects. FEMA officials must conduct site inspections, assist Applicants and Recipients in program navigation, scope projects, estimate costs, and conduct compliance reviews. Recipients participate in many of these activities and additionally manage many PA awards throughout the jurisdiction.[213] The demand on participating agencies across all levels of government—and incapacity to meet this demand—is a source of persistent concern among some stakeholders and Members of Congress.[214]

According to multiple reports and testimony by GAO and the DHS OIG over the past 10 years, high turnover rates, lack of adequate training, and insufficient expertise among the FEMA PA workforce consistently contributed to recovery delays.[215] Both oversight agencies have made several recommendations to address these concerns, including increasing staff, training, and establishing a qualification-tracking system.[216]

Insufficient capacity among PA Recipients and Applicants also reportedly delays recovery and undermines compliance. GAO and DHS OIG have concluded that insufficient familiarity with PA Program and eligibility rules among SLTT officials slows recovery and increases compliance violations.[217] Nine out of ten surveyed tribal officials reported to GAO that a lack of capacity and the need for technical assistance from FEMA was a major factor in decisions to apply for FEMA aid as a Recipient or as an Applicant through a state's request.[218] Lack of state and local

capacity may be a particular problem in cases of catastrophic disasters, as in the case of Puerto Rico's recovery from the 2017 hurricanes.[219] Local officials may also lack the capacity and expertise required to identify and complete mitigation projects through PA, resulting in missed opportunities to rebuild resiliently.[220] Further, insufficient construction workforce availability has complicated recovery from large incidents in relatively remote areas like the Virgin Islands (recovering from hurricanes in 2017) and the Commonwealth of Northern Mariana Islands and Guam (both recovering from typhoons in 2018).[221]

FEMA has responded to a number of these workforce issues, for example, by enlisting PA experts in centralized project review as part of the National Delivery Model in 2017,[222] hiring an additional 1,200 PA staff in 2018,[223] and enhancing training and performance management systems for FEMA staff.[224] In 2019 and 2020, GAO evaluated FEMA's improvements to its PA disaster workforce and deployment challenges. GAO recognized that FEMA had implemented new staffing models to address appeals processing, developed new regional workforce plans, and enhanced coach-and-evaluator training.[225]

Despite these changes, workforce incapacity continues to raise concern among FEMA personnel, PA Recipients, and Applicants.[226] For example, new hires have sometimes received insufficient training in PA policies.[227] As a result, FEMA may deploy field personnel unable to fulfill certain responsibilities, including PA administration.[228] FEMA has also acknowledged that the implementation of the National Delivery Model increases Applicants' responsibility for PA project execution—possibly compounding the strain on the local workforce.[229] Where Applicants are not sufficiently trained, PA may operate slowly or inconsistently.[230] For example, officials in Texas reported that large, populous areas like Houston recovered more quickly after Hurricane Harvey under the National Delivery Model than smaller communities that lacked emergency management experts.[231]

Some stakeholders have noted that the increasing number and scale of PA-eligible disasters has exacerbated the strain on PA stakeholders. The especially active 2017 and 2018 disaster seasons revealed vulnerabilities in FEMA's PA capacity and general deployment strategy. In response, FEMA and GAO issued new recommendations.[232] In the summer of 2020, GAO recommended that FEMA develop a plan to accurately assess employee competency, assess deployment efficacy, and create a new staff development program.[233] Congress may monitor implementation of these recommendations.

Congress may also monitor newly proposed rulemaking by FEMA that intends to reduce the number of PA-eligible disaster declarations, shifting more of the work of smaller incident response from FEMA to SLTTs.[234] FEMA explains

> the constraints imposed by numerous and cumulative smaller disasters affect the Agency's readiness to support disaster recovery operations without unacceptable delays by consuming FEMA staff time and resources that would be better used for larger disasters…. FEMA could be faster and more effective in planning for,

responding to, and recovering from large catastrophic disasters if more of its workforce was able to focus on such large disasters, rather than being dispersed to numerous smaller incidents more appropriately handled by the States.[235]

Congress may monitor FEMA's proposed rulemaking, including comments received during the public notice and comment period.[236] Several stakeholders have expressed concern that the rulemaking would leave state and local governments without the necessary capacity to respond to disasters.[237]

Finally, Congress may consider proposals to increase technical assistance available to Recipients and Applicants, particularly those with fewer available resources and less expertise.[238] Additional technical assistance may help Recipients and Applicants navigate the complex PA Program and execute projects. Such improvements may in turn expedite recovery and reduce compliance issues.

Alternative Procedures

The use of Alternative Procedures has been a significant source of congressional interest since their authorization in the Sandy Recovery Improvement Act in 2013 (for a detailed description of Alternative Procedures see "PA Alternative Procedures" and **Appendix B**).[239]

One area of interest concerns the implementation of Alternative Procedures as a pilot program. SRIA amended the Stafford Act after Hurricane Sandy to authorize FEMA to promulgate regulations or "expeditiously" implement Alternative Procedures as a pilot program without standard rulemaking.[240] FEMA has not promulgated rules for Alternative Procedures since implementation in 2013. Instead, FEMA has issued four distinct iterations of guidance for permanent work projects and seven iterations of guidance for debris removal, in addition to guidance for specific disasters widely utilizing Alternative Procedures (**Appendix C**). The proliferation of policy guidance may have generated confusion among Recipient and Applicants, contributing to recovery delays and expenditures ineligible for PA.[241] Promulgating Alternative Procedures in regulations may increase clarity and facilitate recovery. However, promulgating regulations may reduce FEMA's flexibility to expeditiously improve the Alternative Procedures pilot. Congress may inquire if, or when, FEMA plans to promulgate such regulations.

A second issue relates to the fiscal capacity of Applicants who implement PA projects under Alternative Procedures. Applicants' assumption of the financial risk of budget overruns under Alternative Procedures may complicate recovery efforts. For example, Applicants without sufficient capital to initiate projects before receiving reimbursement or to cover cost overruns may not be able to complete PA-funded projects and advance recovery efforts.[242]

Finally, Congress may consider the delays and challenges associated with the use of fixed cost estimates in Alternative Procedures. One Member of Congress noted that Alternative Procedures was "intended to provide States and territories significantly more flexibility in building back better and faster. Yet [it] seems to be looking more like the paper-intensive 406

[standard procedures] process."[243] Reports that the use of Alternative Procedures sometimes encumber or slow recovery may be of interest to Congress, given statutory aims to expedite and increase the flexibility of PA through the pilot program.[244]

Some observers have attributed delays to the need to determine and establish consensus on estimated costs for PA Alternative Procedures. FEMA and GAO have both attributed delays to the process of determining, validating, and establishing consensus on fixed-cost estimates in Puerto Rico; GAO referred to this process as a "massive challenge."[245] Other recovery efforts have also reported delayed agreements on cost estimates, including the 2018 typhoons in the Commonwealth of the Northern Mariana Islands (CNMI).[246] Recovery stalled in both Puerto Rico and the CNMI. Two years after the hurricanes made landfall in Puerto Rico, FEMA reported that 19 projects out of 9,344 identified damaged worksites on the island (0.2% of the total) had finalized fixed cost estimates.[247] In the case of the CNMI, fixed-cost estimates for Alternative Procedures projects initiated in November 2018 were settled in February-May 2020.[248]

SRIA required the DHS OIG to assess and report on the efficacy of Alternative Procedures.[249] The OIG reported in June 2018 that too few projects had been implemented under Alternative Procedures to undertake the review.[250] Congress may consider new opportunities for program assessment given the growth of Alternative Procedures expenditures since authorization. Congress may consider reviews that include assessment of cost savings under Alternative Procedures, in addition to the status of projects, Applicants' fiscal capacity to meet unforeseen costs, and the overall progress of recovery.

Agency Discretion

Some Members of Congress, the DHS OIG, and nonfederal stakeholders have raised concern regarding FEMA's discretion in determining the eligibility of specific costs and work for PA.[251] For example, in 2020, FEMA determined that Personal Protective Equipment (PPE) purchases and other emergency measures enacted by schools and courthouses in response to the COVID-19 pandemic were ineligible for PA, given that such purchases were not "directly related to the performance of otherwise eligible emergency work."[252] The determination garnered significant criticism from Applicants, news media, and some Members of Congress.[253] Additionally, the DHS OIG and GAO have cited examples where FEMA has approved ineligible—and sometimesfraudulent—costs (see "Oversight Challenges").[254] On the other hand, some Members of Congress and FEMA officials have noted that it is important that FEMA retain flexibility given the particularities of each incident.[255]

Recent statutory and policy changes may provide clarity and consistency to FEMA's eligibility determinations. GAO found that some Applicants reported that certain changes to PA delivery through the National Delivery Model, including the assignment of a single point of contact for Applicants, may remedy some of the confusion created by program rules and procedures.[256]

However, Applicants' reported challenges and delays with eligibility determinations have persisted even after the implementation of the National Delivery Model. GAO has found that in

some cases, eligibility determinations may seem less transparent under the new model, as reported by some PA Applicants during the 2017 hurricanes and wildfires:

> [L]ocal officials in a Texas jurisdiction said that they received better customer service under the old model because the project manager writing the project worksheet could provide the applicant some information immediately to help gauge eligibility, and inform local fiscal decisions.… [W]ith the new process, all of the information is passed to centralized staff to write up the project while the Program Delivery Manager only collects project information, leaving the applicant unaware of next steps or reimbursement eligibility…. According to officials from three of the eight jurisdictions, FEMA's process and decision-making is not clear and this is further complicated by the inability of FEMA staff to fully articulate the new process, due in part to limited training.[257]

DRRA included several provisions that limit FEMA's discretion. For example, Section 1207(d) required that FEMA presume certain cost estimates provided by Applicants using Alternative Procedures to be reasonable and eligible, as long as the estimates were prepared by licensed engineers.[258] Previously, FEMA could determine the reasonability and eligibility of cost estimates on a case-by-case basis. Section 1219 of DRRA also gives some PA Applicants a right to independent arbitration following disputes with FEMA, provided they have initiated an appeal.[259]

Congress may monitor the implementation of DRRA provisions regarding FEMA discretion over PA eligibility determinations. Congress may review recent legislative proposals to further define costs that are eligible for assistance through PA. For example, the FEMA Assistance Relief Act of 2020 (S. 4627; H.R. 8266, 116th Congress) specified costs eligible for PA for COVID-19 response work, following recent FEMA policy disallowing certain costs.

Concluding Observations

The PA Program has undergone significant transformation in recent years. Who gets PA funds, how, and for what purpose has changed due to recent legislation and ongoing executive action.

During the same time, Stafford Act declarations have authorized PA for disasters of exceptional severity and cost—including Hurricane Sandy, the severe hurricane season of 2017, and the historic 2017, 2018, and 2020 wildfire seasons. Obligations for these events and others made FY2020 the most expensive year for PA Program to date (see **Figure 7**), yet FEMA forecasts these costs will be eclipsed by FY2021 spending.[260] The mobilization of PA as a primary mechanism to respond to the COVID-19 pandemic accounts for much of the anticipated spike and raises additional questions about the widening scope of the program (see **Appendix A**). Furthermore, federal agencies, including FEMA, have acknowledged that climate change could alter the predictability, types, and magnitudes of hazards facing the United States, possibly increasing demands on federal disaster relief.[261]

While FEMA responds to these intensifying demands, the agency has proposed rulemaking that would shift some PA-funded disaster response and recovery costs onto nonfederal partners.[262] Under the proposed rule, fewer hazards would receive PA, and as a result, fewer dollars would be transferred to Applicants. If the rule is finalized, SLTTs would bear greater responsibility for response and recovery costs, as determined by measures of their fiscal capacity. According to FEMA, this would allow the agency to focus its resources on the most severe incidents. According to some SLTT representatives, the proposed rule could strain their resources as they emerge from the pandemic and significantly reduce their capacity to prepare, mitigate, respond, and recover to ongoing hazards.[263]

PA faces signficant demands. FEMA proposes to curtail the program's deployment, while nonfederal entities note the strains they, too, face from recent disasters of historic cost and scale. The 117th Congress may consider if—and how—the PA Program should adapt.

Appendix A. Snapshot of PA for COVID-19

On March 13, 2020, President Donald J. Trump declared an emergency under Section 501(b) of the Stafford Act in response to the COVID-19 pandemic.[264] The unprecedented unilateral, nationwide Stafford Act declaration simultaneously authorized PA in all U.S. states, territories, tribes, and the District of Columbia.[265] Subsequently, President Trump approved Stafford Act major disaster declarations reauthorizing PA for emergency protective measures for all 50 states, the District of Columbia, five territories, and the Seminole Tribe of Florida; President Joseph R. Biden subsequently issued a major disaster declaration for the Navajo Nation and the Poarch Band of Creek Indians.[266] Prior to the COVID-19 pandemic, no President had ever declared a major disaster for an infectious disease event[267] or mobilized the PA Program as a primary instrument to respond to a public health incident.[268]

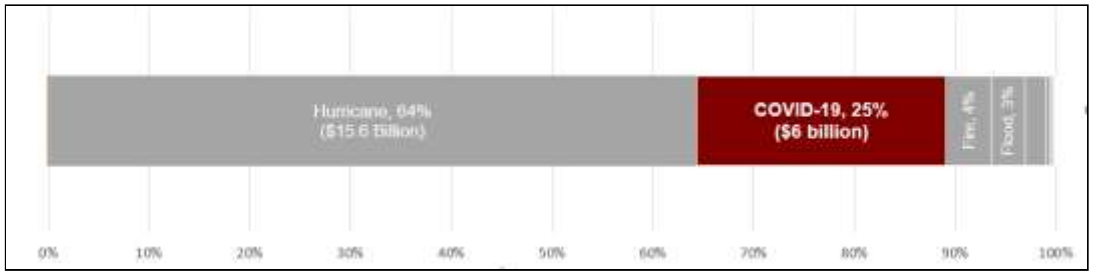
Given the unique and ongoing nature of the COVID-19 pandemic, FEMA released several iterations of guidance specifying the emergency protective measures for which Applicants could receive PA reimbursement or direct federal assistance.[269] President Trump authorized PA for 75% of eligible costs. Eligible measures included eligible costs incurred for emergency medical care,[270] the purchase and distribution of food,[271] non-congregate medical sheltering[272] and other response activities required as a result of the COVID-19 pandemic.[273] FEMA also utilized PA authorities to provide direct assistance for federal COVID-19 testing and PPE distribution efforts.[274] In November 2020, FEMA released additional guidance detailing the eligibility of PA funding or direct assistance for vaccine distribution, storage, and administration.[275]

PA obligations for the COVID-19 pandemic totaled approximately $6 billion in FY2020, according to publicly available FEMA data.[276] This represents approximately one-quarter of all PA expenditures for the fiscal year, according to FEMA (see **Figure A-1**). These obligations alone accounted for the second-largest share of PA obligations in FY2020, following obligations for hurricanes, particularly those that made landfall in 2017 (**Figure A-2**). As noted above, the

DRF is a no-year account and makes obligations for disasters declared in prior and current years.

Obligations for the COVID-19 pandemic notably increased overall PA obligations in FY2020, during which FEMA reported the highest volume of PA obligations of any fiscal year to date.[277]

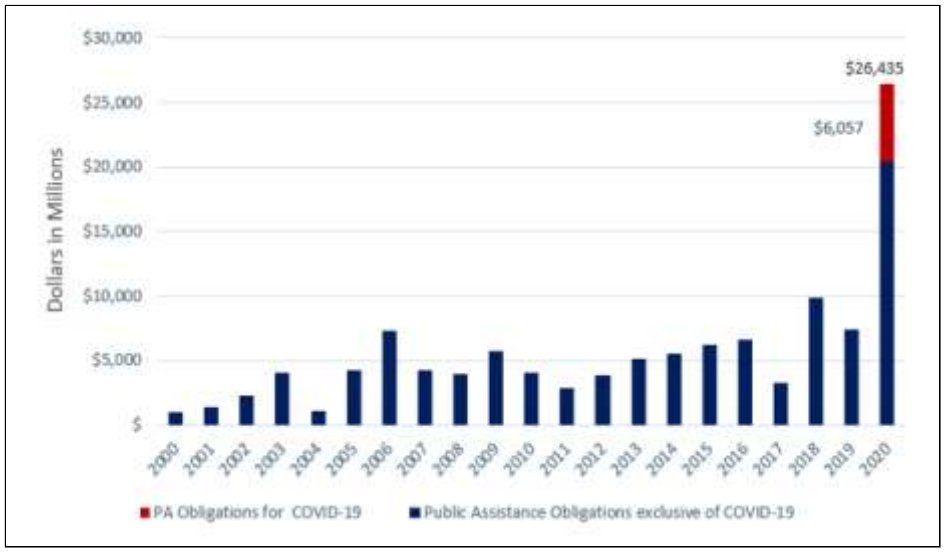
Figure A-1. FEMA-reported PA Obligations for FY2020 by Incident



Source: CRS analysis of OpenFEMA, "Public Assistance Funded Projects—Details," as of December 9, 2020.

Notes: Reflects sum of "federal share obligated" by incident. CRS cannot verify the accuracy of FEMA data.

Figure A-2. FEMA-reported PA Obligations including COVID-19, FY2000-2020



Source: FEMA data on DRF Obligations, FY2000-FY2020 provided to CRS by FEMA Office of Legislative and Congressional Affairs, and PA obligations reported in FEMA, *Disaster Relief Fund Monthly Report*, November 6, 2020, p. 13.

Notes: CRS cannot reconcile discrepancies between FEMA obligations data provided to CRS directly from FEMA and publicly available data on PA obligations available through OpenFEMA.

On January 21, 2021, President Biden issued an Executive Order modifying several aspects of PA for COVID-19 Stafford Act declarations. The Executive Order specified that FEMA shall reimburse eligible Applicants, including courthouses and schools, for the costs of "safe opening and operation of eligible public and nonprofit facilities" during the pandemic.[278] The Executive Order also increased the federal cost share for Public Assistance for the costs of mobilizing the National Guard and for specific costs for the safe opening and operation of certain eligible public and nonprofit facilities to 100% through September 30, 2021.[279] The increased federal cost

share for pandemic response and proposed expansion of PA-eligible costs for pandemic response is projected to significantly increase obligations in FY2021, according to FEMA.[280]

Congress may consider how the mobilization of PA throughout the country as a response program for the COVID-19 pandemic further enlarges the scope, purpose, and expense of the PA Program. Congress may also consider whether Stafford Act authorities were appropriate and sufficient to respond to the pandemic.

Appendix B. Public Assistance Reimbursement Process

PA funding procedures are complex and vary depending on a project's size, purpose, and approval under either standard procedures or the Alternative Procedures pilot program. In all cases, FEMA obligates funds to the Recipient after approving a PA project. The Recipient then disburses funds to the Applicant.

Small Projects

Small projects are obligated according to special procedures established in federal regulations.[281] According to these procedures, the Recipient may disburse funds to Applicants as soon as FEMA approves and obligates a small project (in FY2021, up to $132,800).[282] This process allows Applicants to use federal funds, as opposed to their own funds, to begin work on a project. FEMA may consider requests for additional funds to cover cost overruns resulting from eligible scope of work changes.[283] When the Applicant completes a project, the Recipient must certify that the Applicant completed the approved project in compliance with the FEMA-State agreement and that all payments were disbursed accordingly.[284] FEMA has recently implemented an Applicant "self-certification" process for small projects that reduces documentation burdens.[285] FEMA reported that it reduced application review time by 50%.

Large Projects

For larger projects executed under either standard or Alternative Procedures, Applicants generally receive reimbursement for costs paid for completed work (see **Figure B-1**).[286] FEMA obligates funds on the basis of project estimates to the Recipient, from whom the Applicant requests reimbursement for paid expenses.[287] As noted in the body of the report, Applicants generally need nonfederal funds to pay upfront costs before they may request and receive reimbursement.[288]

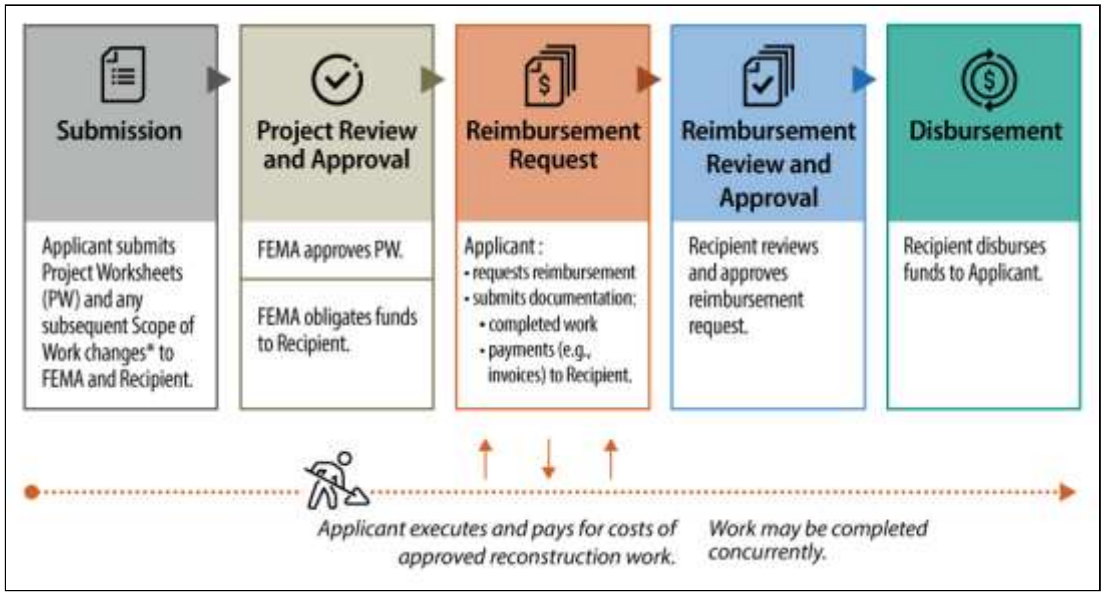
In limited circumstances, the Recipient may approve requests for cash advances to Applicants after FEMA has obligated funds under either standard or Alternative Procedures.[289] FEMA explains that such exceptional advances are limited to the minimum amounts needed, and are timed in accordance with the actual, immediate cash requirements documented in a procurement, contract, and cash needs timeline.[290] Additionally, Applicants may receive advances for emergency work (known as immediate needs or expedited funding). In these

cases, Applicants may immediately receive up to half of the estimated costs of the project in order to respond to an immediate threat.[291]

Because PA is a reimbursement-based program, Applicants lacking capital to begin or advance large PA projects may struggle. GAO has found that this issue is of particular concern among Tribal Applicants, and the Government of Puerto Rico and FEMA reported similar challenges among Applicants strained by Puerto Rico's fiscal crisis.[292]

Figure B-1. FEMA's Public Assistance Reimbursement Process

For Large Projects



Source: §206.205(b); FEMA, *Public Assistance Program and Policy Guide*, FP 104-009-2, effective June 1, pp. 190-191.

Note: * Scope of Work changes generally do not enable Applicants to receive additional PA funds under capped awards, including projects completed under Alternative Procedures.

Awards for Actual Costs (Standard Procedures)

Under standard procedures, Applicants receive reimbursements for large projects on the basis of the actual costs of approved work. FEMA obligates PA awards based on a project estimate to the Recipient, and the Recipient disburses funds to the Applicant for approved costs.[293] FEMA may develop the estimate using the agency's Cost-Estimate Formula, or the Applicant may submit a cost estimate prepared by a licensed professional.[294] If the award exceeds $1 million, FEMA generally obligates funds incrementally according to implementation procedures for *Strategic Funds Management.* FEMA will obligate funds to the Recipient in accordance with the needs of the Applicant's project schedule.[295] Once the Applicant has completed and paid for the project work, the Applicant submits a request for reimbursement to the Recipient, along with documentation of payment (see **Figure B-1**). The Recipient reviews the request and supporting documentation for compliance, completion, and accuracy. If compliant, the Recipient approves the request and disburses funds to the Applicant.

If the Applicant encounters delays, cost overruns, or the need to modify a project, the Applicant may request to change the scope of work.[296] The Applicant submits a description and justification of the change in the project's scope of work (including cost overruns) for the Recipient and FEMA's review.[297] If approved, FEMA obligates additional funds to the Recipient, as warranted. FEMA must provide prior approval for changes to be eligible.

Capped Grants

Unlike PA awards completed under standard procedures, capped grants are awarded on the basis of estimated costs. Cost overruns are the responsibility of Applicants. Under standard procedures, Applicants may request PA on a cost-share basis to cover cost overruns. Like PA awards for large projects under standard procedures, capped grants are provided on a reimbursement basis. In limited circumstances, Recipients may provide Applicants advance funds for immediate cash needs only, with documentation of a cash needs timeline and procurement calendar.[298]

Alternative Procedures

When completing projects under Alternative Procedures, Applicants may retain surplus funds if actual costs fall short of project cost estimates. These excess funds may be put towards specific uses, including additional eligible projects or mitigation measures (see **Figure 5**).[299] Conversely, Applicants are responsible for project costs that exceed the initial fixed-cost estimate, as noted above.

For debris removal under Alternative Procedures, FEMA may use a sliding scale to determine awards. On this basis, FEMA will reimburse a greater share of expedited debris removal work than work completed at a later date.[300]

Improved Projects and Alternative Projects

Applicants may receive PA to complete projects other than the restoration of a facility based on its pre-disaster design. As noted earlier, Applicants may determine that an alternate project may better serve the affected community—for example, rebuilding an indoor school gym rather than restoring an underutilized equipment annex. In these cases, FEMA may provide PA for an alternate eligible facility. However, the award is capped at the federal share of the cost of repairing the original disaster-damaged facility to pre-disaster use, or the federal share of the actual costs of the alternate project, whichever is less.[301] The Applicant is generally responsible for costs that exceed those required to restore the original facility to pre-disaster use. The Stafford Act previously required that awards for alternate projects be reduced to 90% of the estimated award for the reconstruction of the original facility. However, DRRA eliminated this provision. Since 2018, Applicants completing alternate projects are eligible to receive the full federal share of the estimated cost to restore the original disaster-damaged facility.[302]

Applicants may also elect to complete an improved project. An improved project expands or otherwise improves upon the original pre-disaster function of the disaster-damaged facility (beyond the improvements required to comply with the highest available building standards). For example, as noted earlier, Joplin Schools elected to complete an improved project when Old South Middle School was destroyed in tornadoes that struck Missouri in 2011. Old South Middle School was sufficiently damaged that it qualified for the "50% rule": the costs of reconstruction exceeded 50% of the value of replacement, so Joplin Schools was eligible to receive PA sufficient to replace, rather than simply repair, the facility.[303] Rather than rebuild the damaged facility to pre-disaster design, Joplin Schools decided to relocate and replace it with an improved design. However, the award was capped on the basis of FEMA's estimate to reconstruct Old South Middle School.[304] Improved projects are capped at the lesser of either the estimated costs to reconstruct the original disaster-damage facility, or the actual costs of the improved project—whichever is less.[305]

Appendix C. Public Assistance Alternative Procedures Guidance Bibliography

As noted in the report, FEMA's Public Assistance Alternative Procedures operates as a pilot program and is not currently promulgated in regulations. Instead, FEMA has issued many iterations of general and disaster-specific guidance. A select bibliography of this guidance is listed below.

General Guidance

FEMA, *Public Assistance Alternative Procedures for Direct Administrative Costs (DAC)—Version 1.1*, June 12, 2018.

FEMA, *Public Assistance Alternative Procedures for Direct Administrative Costs (DAC)—Version 1*, October 25, 2017.

FEMA, *Public Assistance Alternative Procedures Pilot Program Permanent Work Cost Estimate Validation Job Aid*, May 20, 2013.

Permanent Work

FEMA, *Public Assistance Alternative Procedures Pilot Program for Permanent Work* (Version 4), August 29, 2019.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Permanent Work* (Version 3), March 29, 2016.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Permanent Work* (Version 2), December 19, 2013.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Permanent Work* (Version 1), May 20, 2013.

FEMA *Public Assistance Alternative Procedures Pilot Program—Permanent Work Standard Operating Procedures*, December 19, 2013.

PA Alternative Procedures DAC Project Worksheet Calculation Worksheet Template.

Debris Removal

FEMA, *Public Assistance Alternative Procedures Pilot Program for Debris Removal* (Version 7), June 28, 2019.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Debris Removal* (Version 6.1), June 28, 2018.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Debris Removal* (Version 5), June 28, 2017.

FEMA, *Public Assistance Alternative Procedures Pilot Program for Debris Removal* (Version 4), June 28, 2016.

FEMA, *Public Assistance Alternative Procedures Pilot Guide for Debris Removal* (Version 3), June 28, 2015.

FEMA, *Public Assistance Alternative Procedures Pilot Guide for Debris Removal* (Version 2), June 27, 2014.

FEMA, *PA Alternative Procedures Pilot Guide for Debris Removal* (Version 1), June 28, 2013.

Public Assistance Debris Removal Tips Fact Sheet.

Disaster-Specific Guidance

Hurricane Recovery—Puerto Rico

FEMA, *Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work*, *FEMA-4339-DR-PR,* February 10, 2020 (current), available at https://www.fema.gov/media-library-data/1583262552993-b50ff3154f0862787477db19493fcd10/PAAP_Guide_for_Permanent_Work_DR-4339-PR_V3_2-10-2020_FINAL_508.pdf.

FEMA, *Implementing Section 20601 of the 2018 Bipartisan Budget Act through the Public Assistance Program*, FEMA Recovery Policy FP-104-009-5, December 2019, https://www.fema.gov/media-library-data/1537374589131-e5048390675525d0bc84812759eba5fe/BBA_Policy_9-14-2018_508_FINAL.pdf.

FEMA, *Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work*, *FEMA-4339-DR-PR*, September 2019.

FEMA, *Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work*, *FEMA-4339-DR-PR,* April 2018.

Hurricane Recovery—U.S. Virgin Islands

FEMA, *Public Assistance Alternative Procedures (Section 428) Permanent Work Guide*, *FEMA-4340-DR-VI*, February 10, 2020 (current), https://www.fema.gov/media-library-data/1581363644436-d2b480482d86a6b01397d68d6080e404/PAAP_Guide_for_Permanent_Work_DR-4340-VI_V3_2-7-2020_FINAL_508.pdf.

FEMA, *Public Assistance Alternative Procedures (Section 428) Permanent Work Guide*, *FEMA-4340-DR-VI* (Version 2), September 2019.

FEMA, *Public Assistance Alternative Procedures (Section 428) Permanent Work Guide*, *FEMA-4340-DR-VI* (Version 1), September 15, 2018.

Appendix D. List of Acronyms

CBO	Congressional Budget Office
DFA	Direct Federal Assistance
DHS	Department of Homeland Security
DHS OIG	Department of Homeland Security—Office of Inspector General
DRRA	Disaster Recovery Reform Act of 2018
FEMA	Federal Emergency Management Agency
GAO	Government Accountability Office
PA	Public Assistance
PDA	Preliminary Damage Assessment
SBA	U.S. Small Business Administration
SLTT	State, local, tribal, or territorial government
SRIA	Sandy Recovery Improvement Act of 2013
USACE	U.S. Army Corps of Engineers

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Footnotes

1. 42 U.S.C. §§5121 et seq.
2. FEMA, "Six Counties Receive Federal Help with Wildfire Debris Removal," Sept. 5, 2020, https://www.fema.gov/press-release/20201016/six-counties-receive-federal-help-wildfire-debris-removal; FEMA, "Mississippi Hurricane Katrina: A Decade of Progress Through Partnerships," https://www.fema.gov/media-library-data/1439215278919-27b976d9ae441db76490d3399bdfe16b/Hurricane-Katrina-10-Year-MS-Statewide.pdf; CRS Analysis of OpenFEMA, "Public Assistance Funded Projects—Details," as of August 2, 2020.
3. FEMA, "Declared Disasters," https://www.fema.gov/disasters/disaster-declarations?field_dv2_state_territory_tribal_value=All&field_year_value=All&field_dv2_declaration_type_value=All&field_dv2_incident_type_target_id_selective=All.
4. See, for example, Stafford Act Section 403(a); 42 U.S.C. § 5170b(a), which states that "[i]n any major disaster, the President may" provide certain assistance, and, "Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows…" See also 44 C.F.R. §206.240(b). For more information on declarations, see CRS Report R42702, *Stafford Act Declarations 1953-2016: Trends, Analyses, and Implications for Congress*, by Bruce R. Lindsay.
5. For more information on the Disaster Relief Fund, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter.
6. The Stafford Act additionally authorizes the President to provide Individual Assistance (IA), which helps families and individuals respond to post-disaster needs, and Hazard Mitigation Assistance, which helps communities execute projects that may reduce the loss of life and property from future disasters. For more information, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster; CRS Insight IN11187, *Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance*, by Diane P. Horn.

7. The Sandy Recovery Improvement Act (SRIA), P.L. 113-2; Stafford Act Section 428. The Public Assistance Program Alternative Procedures are codified at Section 1102 of SRIA; 42 U.S.C. §5189f.

8. See explanation of revised PA authorities in U.S. Congress, House Committee on Transportation and Infrastructure, *Disaster Recovery Reform Act,* report to accompany H.R. 4460, 115th Cong., 2nd sess., H.Rept. 115-1098, part 1 (Washington, DC: GPO, 2018), pp. 15-16; see also U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Disaster Recovery Reform Act of 2018,* report to accompany S. 3041, 115th Cong., 2nd sess., S.Rept. 115-446, (Washington, DC: GPO, 2018), pp. 2-4 and Section 1102 of SRIA; 42 U.S.C. §5189f(c).

9. Executive Order 12148.

10. See, for example, FEMA, "Policy, Guide, and Fact Sheets," https://www.fema.gov/assistance/public/policy-guidance-fact-sheets; FEMA, "Other Public Assistance Policies and Guidance," https://www.fema.gov/assistance/public/policy-guidance-fact-sheets/other.

11. See authorities under Stafford Act Sections 402, 403, 407, 418, 419, and 502; 42 U.S.C. §§5170a-5170b, 5173, 5185-5186, 5192. While PA emergency work is also available under Fire Management Assistance Grants (FMAGs), the FMAG program is separate and distinct and administered separately. For more information on FMAGs, see CRS Report R43738, *Fire Management Assistance Grants: Frequently Asked Questions*, by Bruce R. Lindsay and Katie Hoover.

12. Stafford Act Section 102(1); 42 U.S.C. §5122(1).

13. Stafford Act Section 501; 42 U.S.C. §5191; 44 C.F.R. §206.35(a).

14. Other forms of Stafford Act assistance, including most forms of Individual Assistance and the Hazard Mitigation Grant Program, are not available under Emergency Declarations. These programs are available through a major disaster declaration under the Stafford Act. In very rare cares, emergency declarations may authorize the Individuals and Households Program. See FEMA, "How a Disaster Gets Declared," https://www.fema.gov/disasters/how-declared.

15. 44 C.F.R. §206.35(c).

16. 44 C.F.R. §206.35.

17. Stafford Act Section 501(b); 42 U.S.C. §5191(b).

18. FEMA, "Notice: Oklahoma; Emergency and Related Determinations," 60 *Federal Register* 22579, May 8, 1995; FEMA, "Notice: Space Shuttle Columbia; Emergency and Related Determinations," 68 *Federal Register 9667*, February 28, 2003.

19. FEMA, "COVID-19 Emergency Declaration," Release Number: HQ-20-017-FactSheet, March 13, 2020, https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration. See also CRS Insight IN11251, *The Stafford Act Emergency Declaration for*

COVID-19, by Erica A. Lee, Bruce R. Lindsay, and Elizabeth M. Webster; and CRS Report R46326, *Stafford Act Declarations for COVID-19 FAQ*, by Elizabeth M. Webster, Erica A. Lee, and William L. Painter.

20. Stafford Act Section 401(a)-(b); 42 U.S.C. §5170(a)-(b).

21. FEMA, "Louisiana Hurricane Katrina (DR-1603-LA)," https://www.fema.gov/disaster/1603; FEMA, "New York Hurricane Sandy (DR-4085-NY)," https://www.fema.gov/disaster/4085; FEMA, "Puerto Rico Hurricane Maria (DR-4339-PR)," https://www.fema.gov/disaster/4339.

22. In practice, these estimates generally include the uninsured costs of emergency response and long-term reconstruction work. FEMA, *FEMA Preliminary Damage Assessment Guide*, May 2020, https://www.fema.gov/sites/default/files/2020-07/fema_preliminary-disaster-assessment_guide.pdf; CRS Report R44977, *Preliminary Damage Assessments for Major Disasters: Overview, Analysis, and Policy Observations*, by Bruce R. Lindsay.

23. 44 C.F.R. §206.48.

24. For more information, see FEMA, *Tribal Declarations Pilot Guidance,* January 2017, pp. 34-36, https://www.fema.gov/sites/default/files/2020-04/tribal-declaration-pilot-guidance.pdf.

25. 44 C.F.R. §206.48(a).

26. These thresholds are called "per-capita indicators." GAO, *Federal Disaster Assistance; Improved Criteria Needed to Assess a Jurisdiction's Capability to Response and Recover on Its Own,* GAO-12-838, September 2012, p. 24 (hereinafter GAO, *Improved Criteria*), https://www.gao.gov/assets/650/648162.pdf.

27. FEMA, "Tribal Declarations Pilot Guidance," January 2017, https://www.fema.gov/sites/default/files/2020-04/tribal-declaration-pilot-guidance.pdf.

28. Annually adjusted statewide per capita indicators are available at FEMA, "Per Capita Impact Indicator and Project Thresholds," https://www.fema.gov/assistance/public/applicants/per-capita-impact-indicator.

29. Ibid.

30. FEMA explains "This is particularly true where critical facilities (such as major roadways, bridges, public buildings, etc.) are affected or where localized per capita impacts are extremely high. For example, localized damages may be in the tens or even hundreds of dollars per capita, even though the overall statewide per capita impact is low." FEMA, "Disaster Declaration Criteria Fact Sheet," December 2019, provided by FEMA Office of Congressional and Legislative Affairs to CRS.

31. For more information, see FEMA, *FEMA Preliminary Damage Assessment Guide,* May 2020, pp. 63-64, https://www.fema.gov/sites/default/files/2020-07/fema_preliminary-disaster-assessment_guide.pdf.

32. See CRS Report R45819, *The Disaster Recovery Reform Act of 2018 (DRRA): A Summary of Selected Statutory Provisions*, coordinated by Elizabeth M. Webster and Bruce R. Lindsay.

33. FEMA, "Notice: Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program," notice of proposed rulemaking, 85 *Federal Register* 80719, December 14, 2020 (hereinafter FEMA, "Proposed Rule: Cost of Assistance Estimates"), https://www.federalregister.gov/documents/2020/12/14/2020-27094/cost-of-assistance-estimates-in-the-disaster-declaration-process-for-the-public-assistance-program; FEMA, *Disaster Recovery Reform Act (DRRA): Annual Report,* October 2019, p. 7, https://www.fema.gov/media-library/assets/documents/184634.
34. GAO, Federal Disaster Assistance: Improved Criteria Needed to Assess a Jurisdiction's Capability to Respond and Recover on Its Own, GAO-12-838, September 2012, https://www.gao.gov/products/GAO-12-838.
35. See CRS Insight IN11534, *Authorizing Stafford Act Public Assistance*, by Erica A. Lee.
36. 44 C.F.R. §§206.201(m), 202.202(b).
37. 44 C.F.R. §206.44(a).
38. 44 C.F.R. §206.44(a)-(b).
39. 44 C.F.R. §206.226(b); for more information, see FEMA, "Hazard Mitigation Planning," https://www.fema.gov/emergency-managers/risk-management/hazard-mitigation-planning.
40. 44 C.F.R. §206.202. FEMA outlines the requirements of Recipient administration and planning in FEMA, *PAPPG 2020*, pp. 26-28.
41. FEMA occasionally releases disaster-specific guidance detailing specific costs or work that may be eligible for PA in the case of unusual or catastrophic disasters; for example, the COVID-19 pandemic or Hurricane María recovery in Puerto Rico.
42. See 42 U.S.C. §5122(11)(A), Section 102(11)(A) of the Stafford Act, and 44 C.F.R. §206.221(e). FEMA provides a full discussion on the eligibility of private non-profit organizations in FEMA, *PAPPG 2020*, pp. 43-47.
43. See 42 U.S.C. §5122(11)(B), Section 102(11)(B) of the Stafford Act, and 44 C.F.R. §206.221(e)(7). See also FEMA, *PAPPG 2020*, pp. 43-47. Section 20604 of the Bipartisan Budget Act of 2018 (P.L. 115-123) changed eligibility for houses of worship under the Stafford Act. Per 42 U.S.C. §5122(11)(B), "[n]o house of worship may be excluded from this definition because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice."
44. FEMA, *PAPPG 2020*, p. 12.
45. FEMA, *PAPPG 2020*, p. 13.
46. FEMA, *PAPPG 2020*, pp. 30-33. FEMA released a memorandum for COVID-19 procurement. FEMA, "Procurement Under Grants Conducted Under Emergency or Exigent Circumstances for COVID-19," memorandum, March 17, 2020, https://www.fema.gov/media-library-data/1584457999950-7186ffa29ace3e6faf2ca2f764357013/Procurement_Under_EE_Circumstances_Memo_final_508AB.pdf. See also FEMA, "Procurement Under Grants: Under Emergency or Exigent

Circumstances," fact sheet, March 20, 2020, https://www.fema.gov/news-release/2020/03/20/procurement-under-grants-under-exigent-or-emergency-circumstances.

47. Stafford Act Section 406(a)(1); 42 U.S.C.§5172(a)(2). See also 44 C.F.R. §206.223(a)(1)-(2).

48. Stafford Act Sections 406(a)(3)(A)(i) and 406(a)(3)(B)-(C); 42 U.S.C. §5172(a)(3)(A)(i) and 42 U.S.C. §§5172(a)(3)(B)-(C).

49. 44 C.F.R. §206.226(a); FEMA, *PAPPG 2020,* pp. 53-54. Stafford Act Section 405 does enable the President to authorize any federal agency to repair federal facilities damaged or destroyed by a major disaster, but this statute is not included in the PA program, and Recipients may not receive reimbursement for these projects. 42 U.S.C. §5171(a)-(b).

50. FEMA, *PAPPG 2020*, pp. 171, 268-270.

51. FEMA, *PAPPG 2020,* pp. 53-54.

52. 44 C.F.R. §206.223(a)(3).

53. Exceptions exist. For example, FEMA has in certain cases determined that medical or custodial care facilities are eligible for emergency work. FEMA, "Emergency Medical Care," https://www.fema.gov/fact-sheet/emergency-medical-care.

54. 44 C.F.R. §206.223(b).

55. FEMA, *PAPPG 2020,* pp. 54-55, 221-226.

56. FEMA, *PAPPG 2020,* pp. 76-85.

57. Authorized in Stafford Act Sections 403, 407, 428, and 502; 42 U.S.C. §§5170a, 5170b, 5173, 5189f, 5192. See also 44 C.F.R. §206.208. For a non-exclusive list of eligible activities, see FEMA, *PAPPG 2020,* pp. 110-111; a detailed discussion of eligible costs may be found at pp. 111-137.

58. Authorized in Stafford Act Sections 402, 403, 418, 419, 502; 42 U.S.C. §§5170a, 5170b, 5185-86, 5192. See also 44 C.F.R. §206.208. For a non-exclusive list of eligible activities, see FEMA, *PAPPG 2020,* pp. 110-111; a detailed discussion of eligible costs may be found at pp. 111-137.

59. Authorized in Stafford Act Section 402, 418, 419, 502; 42 U.S.C. §§5170a, 5185-86, 5192. See also 44 C.F.R. §206.208.

60. FEMA, "FEMA POLICY: Mission Assignments," FEMA Policy #104-010-2, p. 9, https://www.fema.gov/sites/default/files/2020-04/MA_Policy_aug172018.pdf.

61. Ibid., pp. 2-3.

62. 44 C.F.R. §206.208(c)(1).

63. See CRS Insight IN11392, *COVID-19 Alternate Care Sites (ACSs): Role and Activities of the U.S. Army Corps of Engineers*, by Nicole T. Carter and Hannah Fischer; Lee Roberts, USACE, "Debris team wrapping up FEMA technical support mission in Middle Tennessee," April 23, 2020, https://www.usace.army.mil/Media/News-Archive/Story-Article-

View/Article/2162830/debris-team-wrapping-up-fema-technical-support-mission-in-middle-tennessee/.

64. Public and nonprofit facilities are defined in the Stafford Act Section 102(10)-(11) and 44 C.F.R. §§206.221(e) and (h).

65. Stafford Act Section 406(a)(3)(A)(ii); 42 U.S.C. §5172(a)(A)(3)(ii); 44 C.F.R. §206.226(c)(2).

66. 44 C.F.R. §206.226(f); FEMA, *PAPPG 2020*, pp. 156-160.

67. FEMA, *PAPPG 2020*, pp. 160-161.

68. See FEMA, "Benefit-Cost Analysis," https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis.

69. Section 406(c) of the Stafford Act, 42 U.S.C. §5172(c); 44 C.F.R. §206.203(d)(2).

70. FEMA, *PAPPG 2020*, p. 163.

71. Section 406(c) of the Stafford Act, 42 U.S.C. §5172(c); 44 C.F.R. §206.203(d)(2).

72. FEMA Public Assistance Appeals Database, "Improved Project—Joplin Schools," signed July 24, 2018, https://www.fema.gov/appeal/improved-project-5.

73. 44 C.F.R. §206.203(d)(2).

74. Department of Homeland Security Office of Inspector General (DHS OIG), *FEMA Public Assistance Grant Program Funds Awarded to City of Milwaukee, Wisconsin*, DD-12-14, June 2012, pp. 1-2, https://www.oig.dhs.gov/sites/default/files/assets/GrantReports/OIG_DD-12-14_Jun12.pdf.

75. FEMA, "Public Assistance Management Costs (Interim), FEMA Recovery Policy FP 104-11-12," November 14, 2018, p. 4, https://www.fema.gov/sites/default/files/2020-07/pa_management_costs_interim_policy.pdf.

76. Ibid., pp. 3-4; Section 324 of the Stafford Act; 42 U.S.C. §5165b.

77. For more information, see FEMA, "Public Assistance Management Costs (Interim): FEMA Recovery Policy FP 104-11-2," November 11, 2018, https://www.fema.gov/sites/default/files/2020-07/pa_management_costs_interim_policy.pdf; FEMA, "Public Assistance Management Costs SOP," February 11, 2019, https://www.fema.gov/sites/default/files/2020-07/pa_mgmt_costs_sop_final.pdf.

78. Section 312 of the Stafford Act; 42 U.S.C. §5155 and 44 C.F.R. §206.250(c). For more information, see CRS Report R44553, *SBA and CDBG-DR Duplication of Benefits in the Administration of Disaster Assistance: Background, Policy Issues, and Options for Congress*, by Bruce R. Lindsay and Eugene Boyd.

79. §1210 of DRRA, P.L. 115-254, as it amends Section 312 of the Stafford Act, 42 U.S.C. §5155. For more information, see CRS Report R45819, *The Disaster Recovery Reform Act of 2018 (DRRA): A Summary of Selected Statutory Provisions*, coordinated by Elizabeth M. Webster and Bruce R. Lindsay, pp. 34-37.

80. 2 C.F.R. §200.404; OMB Circular A-87.

81. FEMA, "Public Assistance: Reasonable Cost Estimation," Job Aid, October 13, 2018, https://www.fema.gov/media-library-data/1539879525279-d00ae1c43f9765c5a4b415e1a31202c5/PA_Reasonable_Cost_Evaluation_Job_Aid_508_FINAL_10-16-2018.pdf.

82. See, for example, Stafford Act Section 503(a), 42 U.S.C. §5193(a), which states "[t]he Federal share for assistance provided under this subchapter [Subchapter V—Emergency Assistance Programs] shall be equal to not less than 75 percent of the eligible costs"; and 42 U.S.C. §5170b(b), which states "[t]he Federal share of assistance under this section [Section 403—Essential Assistance] shall be not less than 75 percent of the eligible cost of such assistance."

83. Pew Charitable Trust, *What We Don't Know About State Spending on Natural Disasters Could Cost Us*, June 2018, pp. 13-14; National Governor's Association, Memorandum on Cost Share Considerations for FEMA Public Assistance Grants, May 20, 2020, https://www.nga.org/wp-content/uploads/2020/04/NGA-Memo_Cost-Share_Final.pdf.

84. 2 C.F.R. §200.306(b)(5). The Department of Housing and Urban Development's Community Development Block Grant, for example, is statutorily authorized to meet federal cost-share requirements.

85. For more information, see CRS Report R46475, *The Community Development Block Grant's Disaster Recovery (CDBG-DR) Component: Background and Issues*, by Michael H. Cecire and Joseph V. Jaroscak.

86. 2 C.F.R. §200.306(e)-(j).

87. For more information, see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Natalie Keegan and Elizabeth M. Webster.

88. One example of such legislation is Section 309 of Division A of P.L. 116-6, which raised the federal cost share to 90% for Public Assistance emergency work for the wildfires of 2018.

89. 44 C.F.R. §206.47. For cost-share adjustments for tribes, see 42 U.S.C. §5170(c), and FEMA, *Tribal Declarations Pilot Guidance*, January 2017, p. 38-39, https://www.fema.gov/media-library-data/1523033284358-20b86875d12843441a521a6141c15099/Pilot_Guidance.pdf.

90. 44 C.F.R. §206.47(b). Per federal regulations, the threshold is annually adjusted. For disasters declared between January 1, 2021, and December 31, 2021, the threshold is $151. FEMA, Department of Homeland Security (DHS), "Notice of Adjustment of Statewide per Capita Indicator for Recommending a Cost Share Adjustment," Advisory, distributed January 28, 2021.

91. 44 C.F.R. §206.47(c).

92. 44 C.F.R. §206.47(d).

93. Stafford Act 406(b)(3)(A); 42 U.S.C. §5172(b)(3)(A).

94. Stafford Act 406(b)(3)(A); 42 U.S.C. §5172(b)(3)(A). See also "Community Rating System" in CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*, by Diane P. Horn and Baird Webel.

95. Stafford Act Section 319; 42 U.S.C. §5162.

96. Stafford Act Section 101(b)(4); 42 U.S.C. §5121(b)(4).

97. Stafford Act Section 311(a)-(b); 42 U.S.C. §5154(a)-(b). See also 44 C.F.R. §206.250(a)-(b), §206.252(d), and §206.253(b)(1).

98. 44 C.F.R. §206.250(a); 44 C.F.R. §206.252.

99. Stafford Act Section 311(a)(2); 42 U.S.C. §5154(a)(2).

100. Stafford Act Section 406(d); 42 U.S.C. §5172(d) and 44 C.F.R. §206.250(d) and §206.252(a)-(b). For additional information, see CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*, by Diane P. Horn and Baird Webel.

101. 44 C.F.R. §§206.250-206.253. FEMA, *Public Assistance Policy On Insurance,* FP 206-086-1, June 29, 2015, https://www.fema.gov/sites/default/files/2020-05/FP206-086-1_PublicAssistancePolicyInsurance_062915.pdf.

102. See, for example, FEMA, *PAPPG 2020*, p. 21.

103. FEMA, *PAPPG 2020*, pp. 185-187, 190-191; 44 C.F.R. §44 206.205(b). Awards over $1 million may be obligated according to Strategic Funds Management, under which FEMA will obligate funds as needed based on the project completion schedule. FEMA, *Strategic Funds Management—Implementation Procedures for the Public Assistance Program*, FEMA SOP 9570.24, December 2012, https://www.fema.gov/sites/default/files/2020-07/fema_9570.24_startegic-funds-mgmt_SOP_12-21-2012.pdf.

104. 44 C.F.R. §206.205(a); and email from FEMA Congressional Affairs staff, September 10, 2020. Recipients may disburse funds to Applicants in advance for the minimum amounts needs and timed with the Applicants immediate cash requirements, per 44 C.F.R. §200.305. States may place different rules on requests for advance funds. See, for example, Texas Division of Emergency Management, "State of Texas Administrative Plan for Public Assistance," 2018, pp. 27-28, https://tdem.texas.gov/wp-content/uploads/2019/08/PA-State-Admin-2018-Texas-State-Administrative-Plan-FINAL.pdf.

105. FEMA Office of Legislative and Congressional Affairs, email to CRS, September 10, 2020.

106. See Former Chairman Mary Landrieu, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Stafford Act Reform: Shaper Tools for A Smarter Recovery,* 111th Cong., 2nd sess., S.Hrg. 111-895, May 12, 2010, pp. 29 (hereinafter HSGAC, *Stafford Act Reform*); Government of Puerto Rico, 2020 Fiscal Plan for Puerto Rico, As Submitted to the Financial Oversight and Management Board for Puerto Rico on May 3, 2020, pp. 28-29, https://www.aafaf.pr.gov/ assets/2020-fiscal-plan-may-3-2020.pdf (hereinafter Government of Puerto Rico, *2020 Fiscal Plan*).

107. FEMA, "Per Capita Impact Indicator and Project Thresholds," https://www.fema.gov/public-assistance-indicator-and-project-thresholds.

108. FEMA delimits the scope of work as follows: "For Emergency Work, the SOW includes work required to address immediate threats and to remove debris and must include quantitative information. For Permanent Work, the SOW includes a description of how the Applicant plans to repair, or has repaired, the damage, including repair dimensions and hazard mitigation description and dimensions." FEMA, *PAPPG 2020*, p. 183.

109. 44 C.F.R. §206.204(e).

110. FEMA Public Assistance Appeals Database, FEMA Appeal Brief PW# 873, signed September 16, 2020, https://www.fema.gov/appeal/change-scope-work-improved-project-codes-and-standards.

111. 44 C.F.R. §206.204(e).

112. 44 C.F.R. §206.204(e)(2).

113. GAO, *Disaster Assistance: Opportunities to Enhance Implementation of the Redesigned Public Assistance Grant Program*, November 2017, GAO-18-30, pp. 2-3 (hereinafter GAO, *PA Redesign*); DHS OIG, *Management of FEMA Public Assistance Grant Funds Awarded to the Sewerage and Water Board of New Orleans Related to Hurricanes Katrina, Isaac, and Gustav*, OIG-20-21, March 27, 2020, pp. 20-21; FEMA Administrator Brock Long, pp. 6-7, Governors Steve Bullock and Brian Sandoval on behalf of the National Governor's Association (NGA), submitted testimony, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *FEMA: Prioritizing a Culture of Preparedness,* 115th Cong., 2nd sess., April 11, 2018, S.Hrg. 115-442, pp. 6-7 (hereinafter HSGAC, *Prioritizing Preparedness*).

114. The Sandy Recovery Improvement Act (SRIA), P.L. 113-2; Stafford Act Section 428. The Public Assistance Program Alternative Procedures are codified at Section 1102 of SRIA; 42 U.S.C. §5189f. The statute reads

> Goals of Procedures—The alternative procedures adopted under subsection (a) shall further the goals of—(1) reducing the costs to the Federal Government of providing such assistance; (2) increasing flexibility in the administration of such assistance; (3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and (4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.

115. Section 1102 of SRIA, Division B of P.L. 113-2, as codified at 42 U.S.C. §5189f(f), Section 428(f) of the Stafford Act.

116. As of November 2020, FEMA has published five pilot guides for Public Assistance Alternative Procedures for Permanent Work, and eight guides for Public Assistance

Alternative Procedures Debris Removal, in addition to guidance on administrative costs and jobs aids, as well as three iterations each of disaster-specific guidance for Puerto Rico's 2017 hurricane recovery, and the Virgin Islands. Archived guidance for general Alternative Procedures is available at FEMA, "Archives: Public Assistance Alternative Procedures (PAAP)," https://www.fema.gov/assistance/public/policy-guidance-fact-sheets/public-assistance-alternative-procedures-paap-archives.

117. FEMA, *PAPPG 2020,* p. 12.

118. CRS analysis of data provided by FEMA Office of Congressional and Legislative Affairs current through August 21, 2020.

119. Predisaster use refers to the capacity and function of the facility immediately prior to the incident. For more information, see 44 C.F.R. §206.226.

120. FEMA, *PAPPG 202*0, pp. 188-189.

121. FEMA, *PAPPG 2020,* p. 164.

122. Omar J. Marrero, Governor of Puerto Rico's Authorized Representative, Letter to Gene L. Dodaro, Comptroller General of the United States, January 30, 2019, in GAO, *Puerto Rico Hurricanes: Status of FEMA Funding, Oversight, and Recovery Challenges,* GAO-19-256, March 14, 2019, pp. 37-38, https://www.gao.gov/products/GAO-19-256, (hereinafter GAO, *Puerto Rico Hurricanes 2019*); GAO Representative Chris P. Currie, oral testimony, U.S. Congress, House Homeland Security Subcommittee on Emergency Preparedness, Response and Recovery, Hearing on Puerto Rico and Virgin Islands Hurricane Recovery, 116th Cong., 1st sess., July 11, 2019; GAO, *2018 Pacific Disasters: Preliminary Observations of FEMA's Disaster Response and Recovery Efforts,* GAO-20-614T, July 8, 2020, pp. 16-18 (hereinafter GAO, *2018 Pacific Disasters*).

123. §1235(b) of DRRA, P.L. 115-254, as it amends §406(e)(1)(A) of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §5172(e)(1)(A). DRRA also amended the Stafford Act to require PA-eligible costs include estimates of replacing eligible projects under Stafford Act Section 406 "in a manner that allows the facility to meet the definition of resilient" developed pursuant to Section 406(e)(1)(A). As of January 2021, FEMA had not yet promulgated a new definition of "resilient." DRRA requires the definition to be published no later than October 2020.

124. Appendix A of FEMA, "Consensus-Based Codes, Specifications and Standards for Public Assistance," FEMA Recovery Interim Policy FP-104-009-11 Version 2.1, December 2019, p. 9 (hereinafter FEMA, "Consensus-Based Codes 2019"), https://www.fema.gov/sites/default/files/2020-05/.DRRA1235b_Consensus_BasedCodes_Specifications_and_Standards_for_Public_Assistance122019.pdf. See the collected volumes of the International Code Council at https://codes.iccsafe.org/.

125. FEMA, "Consensus-Based Codes 2019," p. 2. Exceptions may be granted if the use of consensus-based codes are technically infeasible, extraordinarily burdensome to the

Applicant, or inappropriate (e.g., in the case of facilities listed on the National Register of Historic Places). Ibid., p. 4.

126. FEMA, "Consensus-Based Codes 2019," p. 3.

127. 44 C.F.R. §206.223(d); FEMA, "Consensus-Based Codes 2019," p. 4; FEMA, FAQ: "Consensus-Based Codes, Specifications and Standards for Public Assistance," February 2020, p. 5, https://www.fema.gov/sites/default/files/2020-07/fema_DRRA-1235b-public-assistance-codes-standards-faqs.pdf.

128. Sections 406(c)(1)(B) and 406(c)(2)(B) of the Stafford Act; 42 U.S.C. §§5172(c)(1)(B) and 5172(c)(2)(B). FEMA also funds the Pre-Disaster Mitigation Program and the Hazard Mitigation Grant Program. See CRS Insight IN11187, *Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance*, by Diane P. Horn.

129. FEMA, *PAPPG 2020*, pp. 154-155.

130. 44 C.F.R. §206.226(e).

131. Cost-effectiveness for Applicants using Alternative Procedures is based on the fixed estimate to restore the damaged facility to predisaster use. See FEMA, *PAPPG 2020*, pp. 156-157.

132. See Appendix J: Public Assistance Hazard Mitigation Measures in *PAPPG 2020,* pp. 242-246.

133. FEMA, *PAPPG 2020*, pp. 154-155, 242-246. FEMA, "Benefit-Cost Analysis," https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis.

134. FEMA reported that due to data limitations in the FEMA PA information system, Emergency Management Mission Integrated Environment (EMMIE), mitigation project obligations are estimated based on a proportion of the project costs for the overall PA project. FEMA Office of Congressional and Legislative Affairs, email to CRS, August 21, 2020.

135. For more information about the Disaster Relief Fund and its history, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter.

136. FEMA, "OpenFEMA," https://www.fema.gov/about/reports-and-data/openfema; DHS, "Open Government Plan 3.0," 2014, https://www.dhs.gov/sites/default/files/publications/2014%20Open%20Government%20Plan%20053014_0.pdf.

137. §1224 of DRRA, P.L. 115-254, adding a new §430 of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §5189h.

138. The White House, "President Donald J. Trump Is Supporting the People of Puerto Rico as They Continue to Rebuild Following Natural Disasters," September 18, 2020, https://www.whitehouse.gov/briefings-statements/president-donaldj-trump-supporting-people-puerto-rico-continue-rebuild-following-natural-disasters/#:~:text=PROVIDING%20DISASTER%20relief%3A%20President%20Trump,Rico's%20recovery%20from%20Hurricane%20Maria; for more information see CRS Report R46609, *The Status of Puerto Rico's*

Recovery and Ongoing Challenges Following Hurricanes Irma and María: FEMA, SBA, and HUD Assistance, coordinated by Elizabeth M. Webster.

139. While some projects are funded as capped grants, these award caps are based on cost estimates for individual projects, not predetermined program spending limits. See "PA Alternative Procedures."

140. Individual PA projects may be capped if completed under Alternative Procedures. These caps are established individually for each project. See "PA Alternative Procedures and Capped Awards."

141. Per 44 C.F.R. §206.204(c)-(d), emergency work projects must be completed within 6 months from the declaration date, and permanent work within 18 months of the declaration date, though extensions may be granted by the Recipient for six months, and thereafter by FEMA.

142. A recent illustration of the National Delivery Model reflects 19 steps before obligation. FEMA, *Public Assistance Process Overview,* Briefing Slides, January 16, 2020, slide 11. Provided to CRS by the FEMA Office of Congressional and Legislative Affairs. Available to congressional offices upon request.

143. See, for example, former FEMA Administrator Brock Long, oral testimony, HSGAC, *Culture of Preparedness,* pp. 6-7.

144. CBO, *Potential Increase in Hurricane Damage in the United States: Implications for the Federal Budget,* June 2016, pp. 10-11 (hereinafter CBO, *Hurricane Damage: Federal Budget*).

145. CBO, *Hurricane Damage: Federal Budget*; Adam Rose et al., "The Role of a Deductible/Credit System for Post-Disaster Public Assistance in Meeting Alternative Policy Goals," *Journal of Environmental Planning and Management,* vol., 63, no. 12 (February 2020), pp. 2163-2193; FEMA, *National Strategy Recommendations: Future Disaster Preparedness*, September 6, 2013, https://www.fema.gov/media-library-data/bd125e67fb2bd37f8d609cbd71b835ae/FEMA%20National%20Strategy%20Recommendations%20(V4).pdf.

146. FEMA, *Disaster Relief Fund: Monthly Report as of October 31, 2020*, November 6, 2020, Fiscal Year 2021 Report to Congress, p. 13, https://www.fema.gov/sites/default/files/2020-11/fema_disaster-relief-fund-report_11-2020.pdf.

147. FEMA data categorizes costs for the 9/11 terrorist attacks in New York and New Jersey as "Fire". If these incidents were categorized as "Terrorist," as FEMA categorized 9/11 terrorist attacks in Virginia, then the total costs for "Terrorist" are approximately $3.2 billion and for "Fire" are approximately $4.8 billion.

148. FEMA data categorizes costs for the 9/11 terrorist attacks in New York and New Jersey as "Fire". If these incidents were categorized as "Terrorist," as FEMA categorized 9/11 terrorist

attacks in Virginia, then the total costs for "Terrorist" are approximately $3.2 billion and for "Fire" are approximately $4.8 billion.

149. See, for example, testimony of Rep. Bennie Thompson, House Homeland Security Committee, *Lessons from the 2017 Disasters*; testimony of Rep. Peter King, House Homeland Security Committee, *Road to Recovery,* pp. 37-38; DHS OIG, *FEMA's Public Assistance Grant to PREPA and PREPA's Contracts with Whitefish and Cobra Did Not Fully Comply with Federal Laws and Program Guidelines,* OIG-20-57, July 27, 2020 (hereinafter DHS OIG, *FEMA Whitefish Contracts*), https://www.oig.dhs.gov/sites/default/files/assets/2020-07/OIG-20-57-Jul20.pdf; GAO, *Disaster Assistance: FEMA Should Take Additional Actions to Strengthen Fraud Risk Management for Public Assistance Emergency Work Grants,* GAO-20-604, September 2020, https://www.gao.gov/assets/710/709754.pdf (hereinafter GAO, *FEMA Fraud Risk Management*); U.S. Congress, House Subcommittee on Emergency Preparedness, Response, and Recovery and House Subcommittee on Oversight, Management, and Accountability, *FEMA Contracting: Reviewing Lessons Learned from Past Disasters to Improve Preparedness,* 116th Cong., 1st sess., May 9, 2019, H.Rept. 116-18.

150. See, for example, testimony of Rep. Gonzalez-Colon, U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, *FEMA's Priorities for 2020 and Beyond,* 116th Cong., 2nd sess., March 11, 2020, pp. 20-21; testimony of Rep. Mucarsel-Powell, House Committee on Transportation and Infrastructure Committee, *Disaster Preparedness: DRRA Implementation and FEMA Readiness,* 116th Cong., 1st sess., May 22, 2019, No. 116-18 (hereinafter House Transportation and Infrastructure, *DRRA Implementation),* pp. 18-20.

151. GAO, *Improved Criteria,* pp. 33-37.

152. See GAO, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions,* GAO-20-701, September 21, 2020, https://www.gao.gov/products/GAO-20-701; DHS OIG, *FEMA's Logistics Supply Chain Management System May Not Be Effective During a Catastrophic Disaster,* OIG-14-151, September 2014, https://www.oig.dhs.gov/assets/Mgmt/2014/OIG_14-151_Sep14.pdf; FEMA, *2017 Hurricane Season After-Action Report*, July 12, 2018.

153. GAO, *Additional Actions Would Improve Data Quality and Timeliness of FEMA's Public Assistance Appeals Process,* GAO-18-143, December 15, 2017 (hereinafter GAO, *FEMA's PA Appeals*), https://www.gao.gov/products/GAO-18-143; HSGAC, *Stafford Act Reform,* pp. 2, 7, 29-30, 35, 40, 42; DHS OIG, *Opportunities to Improve FEMA's Public Assistance Appeals Process*, OIG-11-49, March 2011, https://www.oig.dhs.gov/sites/default/files/assets/Mgmt/OIG_11-49_Mar11.pdf.

154. GAO, *Emergency Management: FEMA Has Made Progress, but Challenges and Future Risks Highlight Imperative for Further Improvements*, GAO-19-594T, June 12, 2019, pp. 15-16, 26-27 (hereinafter GAO, *FEMA Progress*), https://www.gao.gov/assets/700/699640.pdf.

155. See, for example, Senate Committee on Homeland Security and Governmental Affairs, *The Path to Efficiency: Making FEMA More Effective For Streamlined Disaster Operations,* 113th Cong., 2nd sess., July 24, 2014, S.Hrg. 113-586, pp. 9-13 (hereinafter HSGAC, *Path to Efficiency*); GAO, *FEMA Progress*, pp. 17-18; CBO, *Hurricane Damage: Federal Budget,* pp. 25-28; GAO, *Limiting the Federal Government's Fiscal Exposure by Better Managing Climate Change Risks*, GAO-19-157SP, pp. 113-115, https://www.gao.gov/assets/700/697245.pdf; Lloyd Dixon, Jason Thomas Barnosky, and Noreen Clancy, *Insuring Public Buildings, Contents, Vehicles, and Equipment Against Disasters: Current Practices of State and Local Government and Options for Closing the Insurance Gap,* RAND Corporation, October 2020 (hereinafter, RAND, *Closing the Insurance Gap*), https://www.rand.org/pubs/research_reports/RRA332-1.html.

156. GAO, *Natural Hazard Mitigation: Various Mitigation Efforts Exist, but Federal Efforts Do Not Provide a Comprehensive Strategic Framework*, GAO-07-403, August 2007, pp. 11, 24-26, https://www.gao.gov/assets/270/265689.pdf; CBO, *Hurricane Damage: Federal Budget*; GAO, *Disaster Recovery: Recent Disasters Highlight Progress and Challenges*, GAO-20-183T, October 22, 2019, pp. 1-2 (hereinafter GAO, *Disaster Recovery Progress*), https://www.gao.gov/assets/710/702173.pdf; GAO, *Fiscal Exposure: Improving Cost Recognition in the Federal Budget*, GAO-14-28, October 2013, p. 7, https://www.gao.gov/assets/660/658620.pdf.

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158. See "Background and Need for Legislation" in U.S. Congress, House Committee on Transportation and Infrastructure, *Disaster Recovery Reform Act,* report to accompany H.R. 4460, 115th Cong., 2nd sess., H.Rept. 115-1098, part 1, pp. 15-20; U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Disaster Recovery Reform Act,* report to accompany S. 3041, 115th Cong., 2nd sess., S.Rept. 115-446.

159. FEMA, "Risk Rating 2.0," https://www.fema.gov/flood-insurance/work-with-nfip/risk-rating; FEMA "Risk Rating 2.0 Overview," September 2019, https://www.fema.gov/media-library-data/1569002542461-a458061bb06a2d7cf6dbdf83bbd8d763/RiskRatingOverview_May2019_to_Sept2019.pdf; CBO, *Expected Costs of Damage from Hurricane Winds and Storm-Related Flooding,* April 2019*,* pp. 24-25 (hereinafter CBO, *Expected Costs*).

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research has found that PA may not disincentivize insurance uptake or mitigation. See literature review and survey data in RAND, *Closing the Insurance Gap,* pp. 52-58.

161. See CRS Insight IN11534, *Authorizing Stafford Act Public Assistance*, by Erica A. Lee; FEMA, DHS, "Proposed Rule: Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program," 85 *Federal Register* 80719, December 14, 2020; GAO, *Improved Criteria*, pp. 24-28; CBO, *Hurricane Damage: Federal Budget,* p. 27.

162. FEMA, "Proposed Rule: Cost of Assistance," p. 80732.

163. Ibid.

164. For more information, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter, pp. 20-22.

165. FEMA, "Proposed Rule: Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program," 85 *Federal Register* 80724, December 14, 2020.

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172. National Advisory Committee Report to the FEMA Administrator, November 2020, pp. 12-13, https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf; Simone J. Domingue and Christopher T. Emrich, "Social Vulnerability and Procedural Equity: Exploring the Distribution of Disaster Aid Across Counties in the United States," *The American Review of Public Administration,* June 18, 2019; Rebecca Hersher, "How Federal Disaster Money Favors the Rich," *NPR,* March 5, 2019; Sen. Dick Durbin, "Durbin, Duckworth Work to Bring Fairness to FEMA Disaster Declaration Process," webpage, June 13, 2019, https://www.durbin.senate.gov/newsroom/press-releases/durbin-duckworth-work-to-bring-fairness-to-fema-disaster-declaration-process. Rep. Rodney Davis, "Davis Urges FEMA to Consider Local Impact When Determining Latest Illinois Disaster Request," March 9, 2016, https://rodneydavis.house.gov/news/documentsingle.aspx?DocumentID=398970. See also Proposed Rule on Cost of Assistance Estimates, comments # FEMA-2020-0038-003, submitted December 17, 2020, and # FEMA-2020-0038-0020, submitted February 5, 2021, https://www.regulations.gov/document/FEMA-2020-0038-0001/comment.

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3, 28; CBO, *Expected Costs.* See also concerns about the effects of reducing PA declarations on mitigation investments in Proposed Rule on Cost of Assistance Estimates, comment # FEMA-2020-0038-0032 by representatives of Pew Charitable Trust, pp. 4-5, and comment # FEMA-2020-0038-0025 by representatives of South Carolina Emergency Management Division, p. 1, https://www.regulations.gov/document/FEMA-2020-0038-0001/comment. See also National Governor's Association, "Coalition Letter On FEMA's Notice Of Proposed Rulemaking: Cost Of Assistance Estimates In The Disaster Declaration Process For The Public Assistance Program," March 5, 2021, https://www.nga.org/advocacy-communications/letters-nga/coalition-letter-fema-assistance-estimates/.

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283. FEMA, *PAPPG 2020,* pp. 199-200.

284. FEMA, *PAPPG 2020,* pp. 199-200; 44 C.F.R. §206.205(a).

285. Testimony of Former FEMA Administrator Jeffrey Byard, House T&I, *Recent Disasters,* pp. 143-144.

286. 44 C.F.R. §206.205(a); and email from FEMA Congressional Affairs staff, September 10, 2020.

287. 44 C.F.R. §206.205(b) and 2 C.F.R. §200.305.

288. FEMA Office of Legislative and Congressional Affairs, email to CRS, September 10, 2020.

289. See 44 C.F.R. §206.205(a)-(b) and 2 C.F.R. §200.305.

290. 2 C.F.R. §200.305; email from FEMA Congressional Affairs staff, September 10, 2020.

291. See, for example, FEMA, "Expedited Funding for Public Assistance Projects," March 26, 2019, https://www.fema.gov/news-release/20200220/expedited-funding-public-assistance-projects.

292. GAO, Emergency Management: Implementation of the Major Disaster Declaration Process for Federally Recognized Tribes, May 2018, GAO-18-443, p. 19, https://www.gao.gov/assets/700/691962.pdf; Government of Puerto Rico, 2020 Fiscal Plan, pp. 28-29.

293. FEMA, *PAPPG 2020,* pp. 190-191; 44 C.F.R. §44 206.205(b). Awards over $1 million may be obligated according to Strategic Funds Management, under which FEMA will obligate funds as needed based on the project completion schedule. FEMA, *Strategic Funds Management—Implementation Procedures for the Public Assistance Program,* FEMA SOP 9570.24, December 2012, https://www.fema.gov/sites/default/files/2020-07/fema_9570.24_startegic-funds-mgmt_SOP_12-21-2012.pdf.

294. FEMA, *PAPPG 2020,* pp. 185-187. FEMA, "Cost Estimating Tools," https://www.fema.gov/assistance/public/cost-estimating-tool.

295. FEMA, *Strategic Funds Management Frequently Asked Questions,* https://www.fema.gov/sites/default/files/2020-09/fema_strategic_funds_management_faqs_02-24-15.pdf; FEMA, *Strategic Funds Management—Implementation Procedures for the Public Assistance Program,* SOP 9570.24, December 2012.

296. 44 C.F.R. §206.204(e).

297. 44 C.F.R. §206.204(e)(2).

298. 44 C.F.R. §206.205(b) and 2 C.F.R. §200.305; FEMA Office of Legislative and Congressional Affairs, email to CRS, September 10, 2020.

299. Stafford Act Section 428(c)(4) authorizes the provision of "financial incentives and disincentives for a State, tribal, or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance." 42 U.S.C. §5189f(c)(4). See also "Use of Excess Funds" in FEMA, "Public Assistance Alternative Procedures Guide for Permanent Work, FEMA-4339-DR-PR," February 10, 2020, pp. 16-18.

300. Sandy Recovery Improvement Act of 2013, P.L. 113-2, January 29, 2013.

301. Section 406(c) of the Stafford Act, 42 U.S.C.§5172(c); 44 C.F.R. 206.203(d)(2); FEMA, *PAPPG 2020,* p. 164.

302. Section 1207(a) of DRRA, P.L. 115-254, as it amends Section 406(c) of the Stafford Act, 42 U.S.C. §5172(c); FEMA, "Disaster Recovery Reform Act Public Assistance Program Amendments," fact sheet, July 2019, https://www.fema.gov/media-library-

data/1565888669158-0ca15d4ade220a19e54313786ceb013d/DRRA_PA_Program_Amendments_FactSheet07_05_19-v3.pdf.

303. 44 C.F.R. §206.226(f).

304. FEMA, "Improved Project—PA ID# 097-U4T46-00," PA Appeals Database, Signed July 24, 2018, https://www.fema.gov/appeal/improved-project-5.

305. FEMA, *PAPPG 2020,* p. 164.

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Executive Order

EXECUTIVE ORDER S-2-05
by the
Governor of the State of California

WHEREAS, the President in Homeland Security Directive-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System, which would provide a consistent nationwide approach for federal, state, local, and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from disasters, regardless of cause, size, or complexity; and

WHEREAS; California local and state government pioneered the development of standardized incident management systems to respond to a variety of catastrophic disasters, including fires, earthquakes, floods, and landslide; and

WHEREAS, in the early 1970s, the California fire service, in partnership with the federal government, developed the seminal emergency incident command system that has become the model for incident management nationwide; and

WHEREAS; in 1993, California was the first state to adopt a statewide Standardized Emergency Management System for use by every emergency response organization, and implemented a system involving local and state agencies to ensure the continual improvement of the Standardized Emergency Management System; and

WHEREAS, California local and state emergency management professionals have contributed their expertise to the development of the new National Incident Management System; and

WHEREAS, it is essential for responding to disasters and securing the homeland that federal, state, local, and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the California Standardized Emergency Management System substantially meets the objectives of the National Incident Management System, and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System nationwide.

NOW, THEREFORE, I, Arnold Schwarzenegger, Governor of the State of California, by virtue of the power vested in me by the Constitution and Statutes of the State of California, do hereby direct the following:

1. My Office of Emergency Services and Office of Homeland Security, in cooperation with Standardized Emergency Management System Advisory Board, will develop a program to integrate the National Incident Management System, to the extent appropriate, into the state's emergency management system.
2. The Office of Emergency Services will identify any statutes or regulations that need to be eliminated or amended to facilitate implementation of the National Incident Management System.
3. The Office of Emergency Services will report on the status of the implementation of the National Incident Management System to my Emergency Council no later than June 1, 2005.

IN WITNESS WHEREOF I have here unto set my hand and caused the Great Seal of the State of California to be affixed this the eighth day of February 2005.

/s/ Arnold Schwarzenegger

Governor of California

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/12/07			DEPT. 86
HONORABLE DAVID P. YAFFE	JUDGE	C. HUDSON B. JAUREGUI, COURTROOM ASST.	DEPUTY CLERK ELECTRONIC RECORDING MONITOR
HONORABLE 3.	JUDGE PRO TEM		
NONE	Deputy Sheriff	CINDY CRUZ, CSR #9095	Reporter

9:30 am	BS106052	Plaintiff Counsel	BART W. BRIZZEE (X)
	COUNTY OF SAN BERNARDINO	Defendant Counsel	GEOFFREY L. GRAYBILL (X) CAMILLE SHELTON (X)
	VS		
	COMMISION ON STATE MANDATES ETA		

NATURE OF PROCEEDINGS:

HEARING ON PETITION FOR WRIT OF MANDATE;

Matter comes on for trial and is argued.

The Petition for Writ of Mandate is denied.

The Administrative Record (consisting of two volumes) is admitted in evidence as petitioner's exhibit 1.

In 1992 the state legislature enacted Government Code section 8607, which authorized "interested" state and local emergency response agencies to establish a standardized emergency management system. Such a system, called SEMS, was subsequently established.

Government Code section 8607(e)(1) requires each local agency, to use SEMS to coordinate multiple jurisdiction or multiple agency disaster relief operations in order to be eligible for "any funding of response-related costs under disaster assistance programs...."

The County of San Bernardino contends that said statute is within the purview of Article XIII B, Section 6, of the California Constitution, which provides in pertinent part: "Whenever the legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that

MINUTES ENTERED
09/12/07
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/12/07			DEPT. 86
HONORABLE DAVID P. YAFFE	JUDGE	C. HUDSON B. JAUREGUI, COURTROOM ASST.	DEPUTY CLERK ELECTRONIC RECORDING MONITOR
HONORABLE 3.	JUDGE PRO TEM		
NONE	Deputy Sheriff	CINDY CRUZ, CSR #9095	Reporter

9:30 am	BS106052	Plaintiff Counsel	BART W. BRIZZEE (X)
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	VS		
	COMMISION ON STATE MANDATES ETA		

NATURE OF PROCEEDINGS:

local government for the costs of the program or increased level of service...."

In 2002, the County of San Bernardino sought and obtained a judgment and writ of mandate from this court to the effect that SEMS constitutes a "new program or higher level of service" within the meaning of the constitutional provision. This court, the Honorable Dzintra I. Janavs, Judge Presiding, remanded the matter to the Commission to determine in the first instance "whether SEMS constitutes a reimbursable state mandated program."

Upon remand, the State Mandates Commission issued a final administrative decision that, "Government Code section 8607 and the SEMS regulations... do not constitute a reimbursable state-mandated program within the meaning of Article XIII B, Section 6 of the California Constitution."

The County challenges that administrative decision in this matter, raising solely an issue of law, as to which the facts are not in dispute.

The decision by the Commission on State Mandates is correct because the County of San Bernardino is not mandated, by either the statute or SEMS, to provide any particular level of disaster prevention or relief to its residents. The County may either obtain additional funding from the state or federal government by implementing SEMS, or it may elect not

MINUTES ENTERED
09/12/07
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/12/07			DEPT. 86
HONORABLE DAVID P. YAFFE	JUDGE	C. HUDSON B. JAUREGUI, COURTROOM ASST.	DEPUTY CLERK ELECTRONIC RECORDING MONITOR
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	VS		
	COMMISION ON STATE MANDATES ETA		

NATURE OF PROCEEDINGS:

to do so and to provide only the level of disaster preparedness and relief that it can afford to provide without such funding. Under such circumstances, the legislature is not required to reimburse the County for the expense, if any, of implementing SEMS. DEPARTMENT OF FINANCE v. COMMISSION ON STATE MANDATES, 30 Cal.4th 727(2003).

The Administrative Record lodged in this action is ordered forthwith returned to the party who lodged it, to be preserved without alteration until the Judgment herein is final, and to be forwarded to the Court of Appeal in the event of an appeal.

Counsel for the Commission on State Mandates is to submit a proposed judgment to this department within ten days with a proof of service showing that a copy has been served upon opposing counsel by hand delivery or FAX. The court will hold it for ten days before signing and filing it.

MINUTES ENTERED
09/12/07
COUNTY CLERK

CALIFORNIA
DISASTER AND CIVIL DEFENSE
MASTER MUTUAL AID AGREEMENT

This agreement made and entered into by and between the STATE OF CALIFORNIA, its various departments and agencies, and the various political subdivisions, municipal corporations, and other public agencies of the State of California;

WITNESSETH:

WHEREAS, it is necessary that all of the resources and facilities of the State, its various departments and agencies, and all its political subdivisions, municipal corporations, and other public agencies be made available to prevent and combat the effect of disasters which may result from such calamities as flood, fire, earthquake, pestilence, war, sabotage, and riot; and

WHEREAS, it is desirable that each of the parties hereto should voluntarily aid and assist each other in the event that a disaster should occur, by the interchange of services and facilities, including, but not limited to, fire, police, medical and health, communication, and transportation services and facilities, to cope with the problems of rescue, relief, evacuation, rehabilitation, and reconstruction which would arise in the event of a disaster; and

WHEREAS, it is necessary and desirable that a cooperative agreement be executed for the interchange of such mutual aid on a local, countywide, regional, statewide, and interstate basis;

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the parties hereto as follows:

1. Each party shall develop a plan providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster.

2. Each party agrees to furnish resources and facilities and to render services to each and every other party to this agreement to prevent and combat any type of disaster in accordance with duly adopted mutual aid operational plans, whether heretofore or hereafter adopted, detailing the method and manner by which such resources, facilities, and services are to be made available and furnished, which operational plans may include provisions for training and testing to make such mutual aid effective; provided, however, that no party shall be required to deplete unreasonably its own resources, facilities, and services in furnishing such mutual aid.

3. It is expressly understood that this agreement and the operational plans adopted pursuant thereto shall not supplant existing agreements between some of the parties hereto providing for the exchange or furnishing of certain types of facilities and services on a reimbursable, exchange, or other basis, but that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto, shall be without reimbursement unless otherwise expressly

provided for by the parties to this agreement or as provided in Sections 1541, 1586, and 1587, Military and Veterans Code; and that such mutual aid is intended to be available in the event of a disaster of such magnitude that it is, or is likely to be, beyond the control of a single party and requires the combined forces of several or all of the parties to this agreement to combat.

4. It is expressly understood that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto shall be available and furnished in all cases of local peril or emergency and in all cases in which a *STATE OF EXTREME EMERGENCY* has been proclaimed.

5. It is expressly understood that any mutual aid extended under this agreement and the operational plans adopted pursuant thereto, is furnished in accordance with the "California Disaster Act" and other applicable provisions of law, and except as otherwise provided by law that: "The responsible local official in whose jurisdiction an incident requiring mutual aid has occurred shall remain in charge at such incident including the direction of such personnel and equipment provided him through the operation of such mutual aid plans." (Section 1564, Military and Veterans Code.)

6. It is expressly understood that when and as the State of California enters into mutual aid agreements with other states and the Federal Government, the parties to this agreement shall abide by such mutual aid agreements in accordance with the law.

7. Upon approval or execution of this agreement by the parties hereto all mutual aid operational plans heretofore approved by the State Disaster Council, or its predecessors, and in effect as to some of the parties hereto, shall remain in full force and effect as to them until the same may be amended, revised, or modified. Additional mutual aid operational plans and amendments, revisions, or modifications of existing or hereafter adopted mutual aid operational plans, shall be adopted as follows:

    a. Countywide and local mutual aid operational plans shall be developed by the parties thereto and are operative as between the parties thereto in accordance with the provisions of such operational plans. Such operational plans shall be submitted to the State Disaster Council for approval. The State Disaster Council shall notify each party to such operational plans of its approval, and shall also send copies of such operational plans to other parties to this agreement who did not participate in such operational plans and who are in the same area and affected by such operational plans. Such operational plans shall be operative as to such other parties 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

b. Statewide and regional mutual aid operational plans shall be approved by the State Disaster Council and copies thereof shall forthwith be sent to each and every party affected by such operational plans. Such operational plans shall be operative as to the parties affected thereby 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

c. The declination of one or more of the parties to participate in a particular operational plan or any amendment, revision or modification thereof, shall not affect the operation of this agreement and the other operational plans adopted pursuant thereto.

d. Any party may at any time by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, decline to participate in any particular operational plan, which declination shall become effective 20 days after filing with the State Disaster Council.

e. The State Disaster Council shall send copies of all operational plans to those state departments and agencies designated by the Governor. The Governor may, upon behalf of any department or agency, give notice that such department or agency declines to participate in a particular operational plan.

f. The State Disaster Council, in sending copies of operational plans and other notices and information to the parties to this agreement, shall send copies to the Governor and any department or agency head designated by him; the chairman of the board of supervisors, the clerk of the board of supervisors, the County Disaster Council, and any other officer designated by a county; the mayor, the clerk of the city council, the City Disaster Council, and any other officer designated by a city; the executive head, the clerk of the governing body, or other officer of other political subdivisions and public agencies as designated by such parties.

8. This agreement shall become effective as to each party when approved or executed by the party, and shall remain operative and effective as between each and every party that has heretofore or hereafter approved or executed this agreement, until participation in this agreement is terminated by the party. The termination by one or more of the parties of its participation in this agreement shall not affect the operation of this agreement as between the other parties thereto. Upon approval or execution of this agreement the State Disaster Council shall send copies of all approved and existing mutual aid operational plans affecting such party which shall become operative as to such party 20 days after

receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in any particular operational plan. The State Disaster Council shall keep every party currently advised of who the other parties to this agreement are and whether any of them has declined to participate in any particular operational plan.

9. Approval or execution of this agreement shall be as follows:

   a. The Governor shall execute a copy of this agreement on behalf of the State of California and the various departments and agencies thereof. Upon execution by the Governor a signed copy shall forthwith be filed with the State Disaster Council.

   b. Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution approve and agree to abide by this agreement, which may be designated as *"CALIFORNIA DISASTER AND CIVIL DEFENSE MASTER MUTUAL AID AGREEMENT."* Upon adoption of such a resolution, a certified copy thereof shall forthwith be filed with the State Disaster Council.

   c. The executive head of those political subdivisions and public agencies having no legislative or governing body shall execute a copy of this agreement and forthwith file a signed copy with the State Disaster Council.

10. Termination of participation in this agreement may be effected by any party as follows:

   a. The Governor on behalf of the State and its various departments and agencies, and the executive head of those political subdivisions and public agencies having no legislative or governing body, shall file a written notice of termination of participation in this agreement with the State Disaster Council and this agreement is terminated as to such party 20 days after the filing of such notice.

   b. Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution give notice of termination of participation in this agreement and file a certified copy of such resolution with the State Disaster Council, and this agreement is terminated as to such party 20 days after the filing of such resolution.

IN WITNESS WHEREOF this agreement has been executed and approved and is effective and operative as to each of the parties as herein provided.

Signed by: EARL WARREN
GOVERNOR

On behalf of the State of California and all its Departments and Agencies

ATTEST:

November 15, 1950

Signed by: FRANK M. JORDAN
SECRETARY OF STATE



Note:

There are references in the foregoing agreement to the California Disaster Act, State Disaster Council, and various sections of the Military and Veterans Code. Effective November 23, 1970, by enactment of Chapter 1454, Statutes 1970, the California Disaster Act (Sections 1500 ff., Military and Veterans Code) was superseded by the California Emergency Services Act (Sections 8550 ff., Government Code), and the State Disaster Council was superseded by the California Emergency Council.

Section 8668 of the California Emergency Services Act provides:

(a) Any disaster council previously accredited, the State Civil Defense and Disaster Plan, the State Emergency Resources Management Plan, the State Fire Disaster Plan, the State Law Enforcement Mutual Aid Plan, all previously approved civil defense and disaster plans, all mutual aid agreements, and all documents and agreements existing as of the effective date of this chapter, shall remain in full force and effect until revised, amended, or revoked in accordance with the provisions of this chapter.

In addition, Section 8561 of the new act specifically provides:

"Master Mutual Aid Agreement" means the California Disaster and Civil Defense Master Mutual Aid Agreement, made and entered into by and between the State of California, its various departments and agencies, and the various political subdivisions of the state, to facilitate implementation of the purposes of this chapter.

Substantially the same provisions as previously contained in Section 1541, 1564, 1586 and 1587 of the Military and Veterans Code, referred to in the foregoing agreement, are now contained in Sections 8633, 8618, 8652 and 8643, respectively, of the Government Code.

SACRAMENTO COUNTY OFFICE OF EMERGENCY SERVICES

OPERATIONAL AREA PLAN



MARCH 2019

TETRA TECH

FOREWORD

The Sacramento Operational Area Plan (OA Plan) addresses planned methods for managing information, resources, and priorities during a multi-jurisdiction response in the OA to extraordinary emergency situations associated with natural and human caused disasters. This plan is an adjunct to local jurisdiction emergency and disaster plans and does not apply to normal day-to-day emergencies or the established procedures used to cope with such emergencies.

This plan encompasses and addresses operational coordination. Respective Emergency Operation Plans (EOPs) contain information regarding special needs and disabilities, access and functional needs, animals (pets) and CERT and other volunteer organizations in addition to other related material.

The Sacramento OA encompasses the boundaries of Sacramento County and includes the various municipalities and special districts.

Agencies participating in the OA Plan include:

- Sacramento County
- City of Sacramento
- City of Citrus Heights
- City of Elk Grove
- City Folsom
- City of Galt
- City of Isleton
- City of Rancho Cordova
- Cemetery Districts
    - Elk Grove-Cosumnes Cemetery District
    - Fair Oaks Cemetery District
    - Galt-Arno Cemetery District
    - Sylvan Cemetery District
- Community Services Districts
    - Cosumnes Community Services District
    - Rancho Murrieta Community Services District
    - San Juan Community Services District
- Conservation Districts
    - Florin Resource Conservation District
    - Granite Resource Conservation District
    - Lower Cosumnes Resource Conservation District
    - Sloughhouse Resource Conservation District
- Fire Districts
    - Courtland Fire District
    - Delta Fire Protection District
    - Herald Fire District
    - Natomas Fire Protection District
    - Pacific Fruitridge Fire Protection District
    - River Delta Fire District
    - Sacramento Metropolitan Fire District (Metro Fire)
    - Walnut Grove Fire District
    - Wilton Fire Protection District
- Flood Control District
    - American River Flood Control District

- Irrigation District
  - Galt Irrigation District
- Maintenance District
  - Brannan-Andrus Levee Maintenance District
- Mosquito and Vector Control District
  - Sacramento-Yolo Mosquito and Vector Control District
- Reclamation Districts
  - 3, 317, 341, 349, 369, 407, 551, 554, 556, 563, 744, 755, 800, 813, 1000, 102, 1601, 2067, 2110, 2111
- Recreation and Park Districts
  - Arcade Creek Recreation and Park District
  - Arden Manor Recreation and Park District
  - Arden Park Recreation and Park District
  - Cordova Recreation and Park District
  - Fair Oaks Recreation and Park District
  - Fulton-El Camino Recreation and Park District
  - North Highlands Recreation and Park District
  - Orangevale Recreation and Park District
  - Rio Linda-Elverta Recreation and Parks District
  - Southgate Recreation and Park District
- Sanitation District
  - Sacramento Regional County Sanitation District
- Sewer District
  - Sacramento Area Sewer District
- Utility District
  - Sacramento Municipal Utility District (SMUD)
- Water Districts
  - Carmichael Water District
  - Citrus Heights Water District
  - Clay Water District
  - Del Paso Manor County Water District
  - Fair Oaks Water District
  - Florin County Water District
  - Omochumne-Hartwell Water District
  - Rio Linda/Elverta Community Water District
  - Sacramento Suburban Water District

The OA Plan was prepared by the Sacramento County Office of Emergency Services and approved by the Sacramento OA Council.

SACRAMENTO OA PLAN

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ATTACHMENTS

OA Agreement ..... TBD

Attachment 1 OA Participants ..... TBD

Attachment 2 OA Council Roster ..... TBD

Attachment 3 Emergency Contact List ..... TBD

Attachment 4 OA Forms ..... TBD

1.0 INTRODUCTION

1.1 PURPOSE

The OA Plan address Sacramento OA's planned method of coordination, communications, and prioritization of resources among the various local governments during emergencies and disasters. It provides an overview of operational concepts, identifies components, and describes the overall responsibility of the OA lead agencies and participants.

1.2 SCOPE

The OA Plan applies to all local governments within Sacramento County including cities, the county, and special districts. This plan is meant to be used in conjunction with the local government's Multi-Hazard Disaster Plan, local Emergency Operation Plans and any other area-wide plans.

1.3 ASSUMPTIONS

The following assumptions are made for planning purposes and operational response:

- Local jurisdictions are primarily responsible for emergency actions within their scope of responsibility and will commit all available resources to save lives, minimize injury to persons, and minimize damage to property. Local governments will utilize their respective EOPs.
- Sacramento OA will utilize SEMS, ICS and NIMS in emergency operations.
- Sacramento County will participate in the Sacramento OA as the lead agency.
- The OA will commit its resources to a reasonable degree before requesting mutual aid assistance.
- Mutual aid assistance will be requested when disaster relief requirements exceed the OA's ability to meet them.
- Local governments should cooperate in organizing an effective OA.
- OA authority and responsibility is not affected by the nonparticipation of any local government.
- Procedures presented in this plan will be used in the Sacramento OA.
- Nonparticipation in the Sacramento OA Agreement does not preclude a local government from being bound by the requirements of this plan.

1.4 LIMITATIONS

The OA Plan identifies operational strategies and plans for managing inherently complex and potentially catastrophic events. Assets, resources, and departments are potentially vulnerable and may become overwhelmed. Deviations from the organizational and response structures outlined in this Plan may be required, based upon evolving needs and available resources. Given these potential conditions, this Plan is designed to promote flexibility whenever possible and is not intended to limit the use of good judgment and common sense in matters not foreseen or adequately addressed by elements of the OA Plan and its associated annexes, appendices, or plans.

1.5 AUTHORITIES AND REFERENCES

OA functions will be conducted as outlined in Concept of Operations, and in accordance with the enabling legislation, plans, and agreements listed below:

- **California Emergency Services Act**
- **Standardized Emergency Management System (SEMS) Regulations**
- **California Emergency Operations Plan**
- **Sacramento OA Agreement**, Sacramento County Board of Supervisors Resolution #95-1390
- **Robert T. Stafford Act**
- **Homeland Security Presidential Directive 5 & 8**
- **FEMA – National Incident Management System (NIMS)**
- **Local Multi-Jurisdictional Hazard Mitigation Plan**

1.6 TRAINING, EXERCISING, AND MAINTENANCE OF THE PLAN

The OA Coordinator is responsible for coordination and exercising of this plan. The Sacramento County Emergency Operations Division will conduct regular exercises of this plan to train all necessary OA staff in the proper response to disaster situations.

The OA Plan is the result of a joint planning effort by the County, cities, and special districts in the OA. The plan will be reviewed annually to ensure that plan elements are valid and current. The OA Coordinator is responsible for ensuring that necessary changes and revisions to this plan are prepared, coordinated, published, and distributed to all OA jurisdictions and the OA EOC.

Sacramento OA Plan
Revision Record

The date and initials of the person inserting revisions should be entered opposite the revision number.

Rev	Date	Printed Name / Agency	Initials
1			
2			
3			
4			
5			
6			
7			
8			
9			

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11			
12			
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1.7 APPROVAL AND PROMULGATION

Prior to issuance, this Plan has been reviewed by all jurisdictions in the OA. Upon completion of review, the plan will be submitted the Sacramento OA Council and the State Office of Emergency Services for review. Upon concurrence of the Sacramento OA Council, the plan is officially adopted and promulgated. It will become the official Plan of the OA and shall supersede any previous plans. Nothing in this plan shall be construed in a manner that limits good judgment and common sense in matters not foreseen or covered by the elements of the plan or any appendices hereto.

This plan will be reviewed, updated, and approved by participating agencies and OA Council as needed.

_____ _____

Chair, OA Council Date

_____ _____

OA Coordinator Date

2.0 CONCEPT OF OPERATIONS

2.1 INTRODUCTION

All local governments must be prepared to coordinate information, resources, and priorities promptly and effectively within their emergency response organization and with the OA during emergencies. Emergency management activities are associated with four emergency management phases: preparedness, response, recovery, and mitigation. The two phases addressed in this plan are preparedness and response.

2.1.1Preparedness

Preparedness involves activities taken in advance of an emergency. These activities include development of communication and coordination links within the OA and with the regional level, establishing resources procurement and distribution procedures, establishing mutual aid agreements, planning, training and exercises.

2.1.2 Response

During the response phase of an emergency, the OA will be active in three areas:

Information: Status reports from local governments to assess the seriousness of the situation and to coordinate the provision of information to the regional level.

Resources: Survey of resources available within the OA to determine whether there are adequate resources, facilities, and other support to provide to jurisdictions whose own resources prove to be inadequate to cope with an emergency, or, if there is a need to request resources from outside the OA.

Priorities: Coordination of the distribution of mutual aid resources and restoration activities.

2.2 LEVELS OF ACTIVATION

Emergency information, resources, and priorities will be coordinated by the OA organization in one of three modes, depending on the magnitude of the emergency. For planning purposes, State OES has established three levels of emergency response, which are based on the severity of the situation and the availability of local resources.

EOC activation levels are scalable based in the evolving needs and may include full or partial staffing as required. See table below:

Level	Operational Status	Trigger Event/Situation *(examples include but not limited to)*	Activities
Level 3 - Minimal Staffing	Emergency Services Coordinator	Small incident or event One site Potential threat of: Flood Severe storm Escalating incident	Situational Analysis Public Information Response Coordination Resource Coordination Reporting to State
Level 2 Partial Staffing	Management, EOC Section Coordinators Branches/Divisions/Units Liaison/Agency reps	Large scale evacuations 2+ incident sites Severe Weather Warning Earthquake with minor damage Major scheduled event	Situational Analysis Public Information Response Coordination Resource Coordination Logistics Support Reporting to State
Level 1 - Full Staffing	All positions (as required)	Large Winter Storm Terrorist incident Major Earthquake Regional Disaster Major Wildland Fire in Urban interface Other events as require	Situational Analysis Public Information Response Coordination Resource Coordination Logistics Support Recovery Operations Sustained Operations Reporting to State

Specific emergency response actions of the various elements of the OA organization are reflected in **EOC Manual – OA Job Aids and Checklists** of this Plan.

2.3 ACTIVATION OF DEPARTMENT OPERATIONS CENTERS

A department operations center provides a central place close to field operations where supervisors responsible for departmental activities can coordinate their activities with other responding local jurisdictions, state government agencies, and special districts. Activation of a department operations center may occur at any level of activation of the OA.

2.4 OA ALERTING, NOTIFICATION

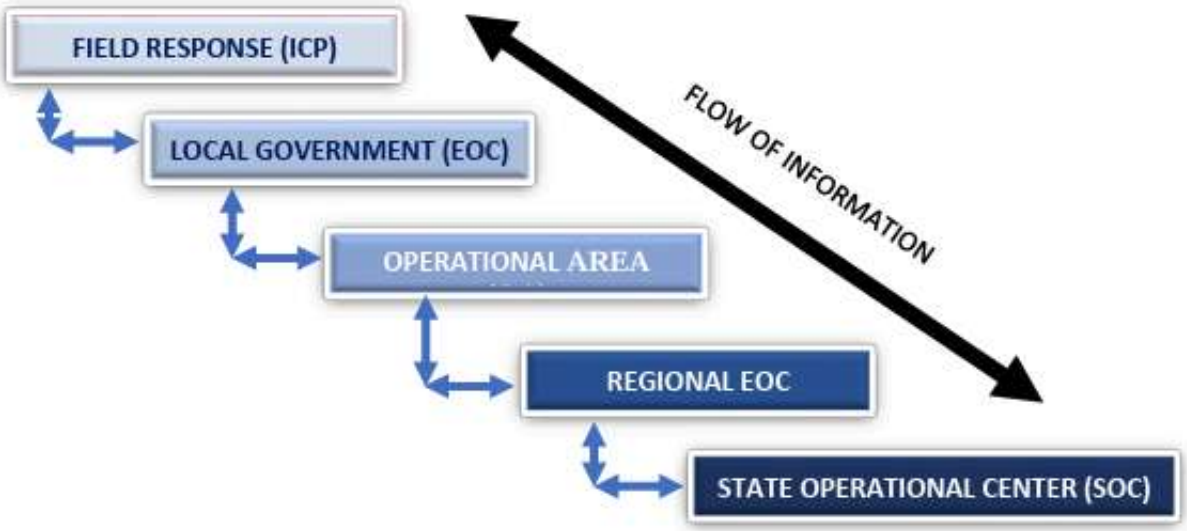
Methods of alerting local governments about emergency situations are not altered by this plan. In addition to already established methods of emergency notification, OA members will be notified by the most expeditious method (smartphone, tablet, cellphone, or e-mail) of the activation of the OA organization and the OA EOC. See the Alert and Warning Annex for detailed specifics regarding methods and ways of alerting and notifying.

3.0 STANDARDIZED EMERGENCY MANAGEMENT SYSTEM (SEMS)

Standardized Emergency Management System (SEMS) is the system required by Government Code Section 8607(a) for managing response to multi-agency and multi-jurisdiction emergencies in California. SEMS consists of five organizational levels which are activated as necessary: field response, local government, OA (countywide), OES Mutual Aid Regions, and state government.

SEMS incorporates the use of the Incident Command System (ICS), the Master Mutual Aid Agreement and mutual aid systems, the OA concept, and multi-agency coordination (MAC).

SEMS has been adopted by Sacramento County for managing response to multi-agency and multi-jurisdiction emergencies and to facilitate communications and coordination between all levels of the system and among all responding agencies.



3.1 LOCAL GOVERNMENT LEVEL

Local government is one of the five levels of SEMS. The basic role of a local government is to manage and coordinate the overall emergency response and recovery activities within its jurisdiction.

A local government under SEMS is a city, county, city and county, school district, or special district. Special districts are units of local government (other than a city or county) with authority or responsibility to own, operate or maintain a project (as defined in California Code of Regulations 2900(s) for purposes of natural disaster assistance). This may include a joint powers authority established under Section 6500 et seq. of the Code.

Cities are responsible for emergency response within their boundaries, although some cities contract for some municipal services from other agencies.

Special districts are primarily responsible in emergencies for restoration of services that they normally provide. They may also be responsible for safety of people at their facilities or on their property and for warning of hazards from their facilities or operations. Some special districts may assist other local governments in the emergency response.

All local governments are responsible for coordinating with other local governments, the field response level and the OA. Local governments are also responsible for providing mutual aid within their capabilities.

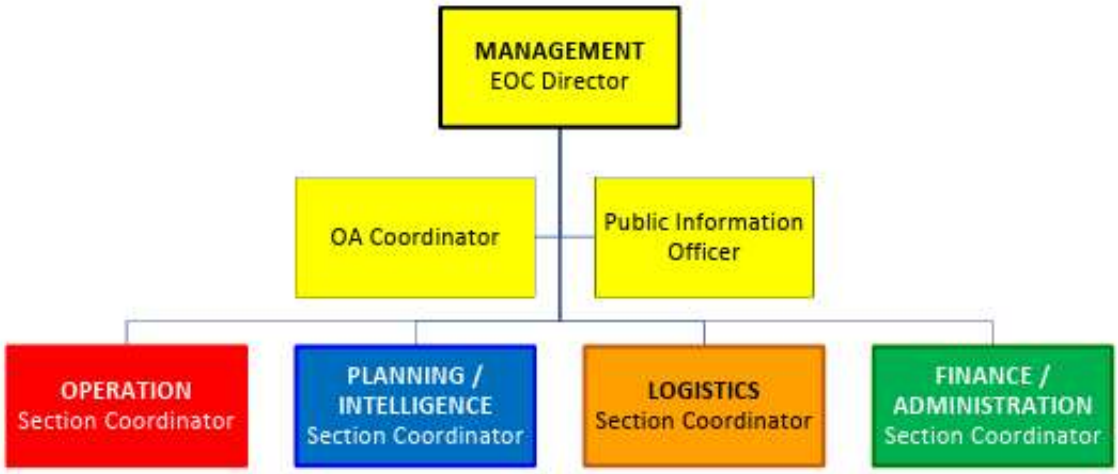
3.1.1 SEMS Requirements for Local Governments

Local governments will comply with SEMS regulation in order to be eligible for state funding of response-related personnel costs and will:

1) Use SEMS when a local emergency is declared or proclaimed, or the local government EOC is activated.
2) Establish coordination and communications with Incident Commanders either through departmental operating centers (DOCs), when activated, or directly to the EOC.
3) Use existing mutual aid systems for coordinating fire and law enforcement resources.
4) Establish coordination and communications between the local jurisdiction EOC when activated, and the OA organization and any state or local emergency response agency having jurisdiction at an incident within the local jurisdiction's responsibilities.
5) Use multi-agency or inter-agency coordination to facilitate decisions for overall local government level emergency response activities.

The requirement to use SEMS includes fulfilling the management and coordination role of local government and providing for the five essential SEMS functions of management, operations, planning/intelligence, logistics and finance/administration.

The EOC is organized by the five major function areas as outlined in SEMS:



Management Responsible for overall direction, setting operational goals and objectives

Operations: Responsible for coordinating all jurisdictional operations in support of the emergency response through implementation of the local government's EOC Action Plan.

Planning: Responsible for collecting, evaluating and disseminating information; documenting incident activities, situations, developing the jurisdiction's EOC Action Plan and After-Action Report in coordination with other functions; and maintaining documentation.

Logistics: Responsible for providing facilities, services, personnel, equipment, and materials.

Finance: Responsible for financial activities and other administrative aspects.

The EOC may also include representatives from special districts, volunteer agencies, and private agencies with significant response roles.

4.0 OPERATIONAL AREA

4.1 DEFINITION

The Operational Area (OA) is defined in the Emergency Services Act as an intermediate level of the state's emergency services organization consisting of a county and all political subdivisions within the county geographic area. Political subdivisions include cities, counties, special district or other local governmental agency, or public agency as authorized by law. The OA is responsible for:

- Coordinating information, resources and priorities among local governments within the OA,
- Coordinating information, resources and priorities between the regional level and the local government level, and
- Using multi-agency and/or inter-agency coordination to facilitate decisions for overall OA level emergency response activities.

The OA Plan is used by the county, the cities and other local governments comprising the OA for the coordination of emergency activities and to serve as a link in the system of communications and coordination between the state's emergency operation centers and the operations centers of the local governments in the OA. The OA will be the focal point for information transfer and support requests by cities and special districts within the County, unless there is an alternative arrangement agreed to by all affected jurisdictions.

4.2 SACRAMENTO OA

The Sacramento OA was approved in November 1995 by the Board of Supervisors. The Sacramento OA Agreement by and between the county, cities, and public agencies established the OA and the terms of agreement between the participants. Attachment 1 is the OA Agreement, Attachment 2 lists the participants. OA members are those whose governing bodies have signed the Sacramento OA Agreement.

4.2.1 Lead Agency

Sacramento County is the lead agency for the Sacramento OA.

4.2.2 OA Organization

The OA organization consists of an OA Coordinator, functional coordinators, and supporting staff. This group constitutes the OA emergency management staff. During emergencies, policy decisions and priorities are set by the Policy Group of the impacted jurisdictions when resources are scarce, or priorities are in conflict.

During larger scale emergencies that involve more than one responsible jurisdiction or agencies, management personnel from the responsible jurisdictions may form a Unified Command or Multi-Agency Coordination Group. The Multi-Agency Coordination section of this plan provides more detail on this aspect of the organization.

4.2.3 OA Council

The Sacramento OA Agreement established the OA Council. The Council consists of a representative from each member city and the county, and a representative from each of the following groups; law enforcement, fire districts, flood control and reclamation districts, water districts, utilities, park and

recreation districts, school districts, and cemetery districts. The council is responsible for reviewing and concurring with OA plans, policies and procedures. See Attachment 3 is the OA Council Roster.

The Council will meet no less than once a year and as often as necessary to handle the business of the OA. Sacramento County Emergency Operations staff function as staff to the Council and are responsible for scheduling, notification, and logistics for Council meetings. OA staff will ensure that minutes, correspondence, plans, and other vital business documents of the council are disseminated to Council representatives and OA members.

4.3 ACTIVATION OF THE OA

Activation of the OA during a State of Emergency or a Local Emergency is required by SEMS regulations under the following conditions:

1) A local government within the OA has activated its EOC and requested activation of the OA EOC to support their emergency operations. §2407(a)(1)

2) Two or more cities within the OA declare or proclaim a local emergency §2409(f)(2).

3) The county and one or more cities have proclaimed a local emergency. §2409(f)(3)

4) A city, city and county, or county has requested a governor's proclamation of a state of emergency, as defined in the Government Code Section 8558(b). §2409(f)(4)

5) A state of emergency is proclaimed by the governor for the county or two or more cities within the OA. §2409(f)(5)

6) The OA is requesting resources from outside its boundaries. This does not include resources used in normal day-to-day operations which are obtained through existing mutual aid agreements. *§2409(f)(6)

7) The OA has received resource requests from outside its boundaries. This does not include resources used in normal day-to-day operations which are obtained through existing mutual aid agreements. §2409(f)(7)

4.3.1 OA Participant's Responsibilities

During an activation of the OA organization and/or OA EOC, participant jurisdictions are responsible to:

- designate a representative who has authority to speak on behalf of the jurisdiction to coordinate with the OA,
- establish communication and coordination with the OA,
- notify the OA when the local government EOC is activated,
- provide status reports of emergency conditions within the jurisdiction,
- determine the utilization of jurisdictional resources and render mutual aid, if possible, when requested by the OA,
- utilize OA functional coordinators when requesting mutual aid resources, and

- If necessary, participate with other affected jurisdictions in the operation area in a multi-jurisdictional coordination group.

4.3.2 OA Staff Responsibilities

- Activation of the local government level means that at least one local government official implements SEMS as appropriate to the scope of the emergency and the local government's role in response to the emergency. The OA functions as the first point of contact for the coordination of local assistance within the OA. OA staff must rapidly assess the situation, identify and prioritize the initial actions to be taken, and acquire/deploy those resources needed to meet the immediate needs of OA jurisdictions.
- OA functional coordinators will establish and maintain contact with local jurisdictions involved in the emergency response to assess the scope of the emergency situation and the need for additional resources. Functional coordinators prepare periodic reports on the emergency situation and the status of OA resources with information gathered from impacted jurisdictions.
- Prior to activation of the OA EOC, the County Emergency Operations Office compiles status reports from all functions for OA situation reports required by State OES. When the OA EOC is activated, the Planning section assumes responsibility for preparing situation reports. During situations of a significant magnitude and scope, where the OA EOC activates and will likely operate for an extended period of time, the OA Coordinator will ensure that communication links are established with necessary agency representatives for multi-agency coordination. Attachment 4 is an Emergency Contact List for the OA.
- Specific responsibilities of OA staff will be found in the checklists in Part 2 of this plan for each of the positions which may be assigned duties in support of the OA.

4.4 OA Emergency Operations Center

The basic purpose of the OA EOC is to serve as the coordination point for obtaining additional resources and coordinating information and priorities for a multitude of emergency response agencies. The Sacramento County (EOC) will function as the OA EOC.

OA EOC Location

Sacramento County OES
Building 600 Suite 122
3720 Dudley Blvd.
McClellan, CA 95652

Alternate EOC

City of Folsom
Emergency Operations Center

4.4.1 EOC Activation Policy

The OA Coordinator and OA staff may function from the OA EOC or from other locations depending on the situation. The OA EOC may be partially or fully staffed to meet the demands of the situation. The level of OA EOC activation is based on the incident and resource needs. The nature of an emergency will determine the level of EOC activation, the numbers of personnel, and the EOC positions that are activated.

The Sacramento OA EOC will be activated at a Level I or Level II emergency. OA members will be notified whenever the OA is activated. Level III OA coordination may be conducted at the Sacramento County Emergency Operations Office or virtually using WebEOC.

4.4.2 Activation Authority

The decision to activate the OA EOC will be made the County Executive or his/her designee, the Chief of Emergency Services.

4.4.3 OA EOC Organization

The OA organization will address the five functional areas of SEMS; management, operations, planning/intelligence, logistics, and finance. Activated functions will be coordinated by the section coordinators responsible for OA activities. The OA Coordinator and the section coordinators function as the OA EOC management team

- OA staff (management team, functional coordinators, and support staff) are responsible for interacting with one another and other entities within the EOC to ensure the effective functioning of the OA EOC organization.

4.4.4 OA Management Team Responsibilities in the EOC

Management – Sacramento County Code designates the County Executive as the County's Director of Emergency Services who is tasked with overseeing and directing all aspects of the OA emergency response and recovery operations including priority setting and resource management. The Director is assisted by a Command staff charged with delivering public information, reviewing legal issues, maintaining safety and security for the EOC, and EOC operations. Management may also facilitate multi-agency coordination.

Operations - The Operations Section supports jurisdictional operations supporting the response to the emergency as well as operational DOCs. Additionally, this section assists with the coordination and deployment of necessary resources for field operations. The Section Coordinator manages functional coordinators who share information and decisions about discipline specific operations.

Planning/Intelligence - The Section will gather information from a variety of sources, including all activated local government EOCs, analyze and verify information, and prepare and update internal EOC information and map displays. The Situation Analysis function will be activated under any EOC activation. The Section has an important function in overseeing the Planning Meetings and in preparing the EOC Action Plan. The Section will collect and process internal EOC documentation and prepare advanced planning information as necessary. Technical Specialists assigned to the EOC will initially be part of the Planning/Intelligence Section.

Logistics - The Logistics Section provides facilities, services, resources and other support services both to county agencies responding to the emergency to local governments in response to requests for resources, and to meet internal EOC operating requirements. Incident, DOC or agency, and local government requests for support directed to the EOC will be channeled through the EOC Operations Section.

Finance - The Finance/Administration Section is responsible for providing fiscal and administrative procedures to support emergency responses of the Operational Area. The EOC Finance/Administration Section will ensure vital records are preserved in the event of a major disaster or emergency, including documentation for work performed and associated costs, time sheets for employees, and the procurement of equipment and supplies.

4.4.5 Public Information – Joint Information Center

During an area wide emergency or disaster, dissemination of information can be essential and timely. In order to provide public information coordination, the OA may open a Joint Information Center (JIC) and manage a Joint Information System (JIS) that provides the mechanism to organize, integrate, and coordinate information to ensure timely, accurate, accessible, and consistent messaging across multiple jurisdictions and/or disciplines with nongovernmental organizations and the private sector. Joint Information System Annex is listed with the Annexes.

4.4.6 Duration of EOC Activation - Deactivation

The OA EOC will remain staffed until such time as the County Executive or his/her designee conclude that it is no longer needed to manage the situation. Once the OA EOC is deactivated, OA staff will be responsible for following up on any ongoing mutual aid missions as well as compiling, generating and forwarding required reports. The EOC Plans Section is tasked with developing a deactivation plan.

4.5 DISASTER INFORMATION

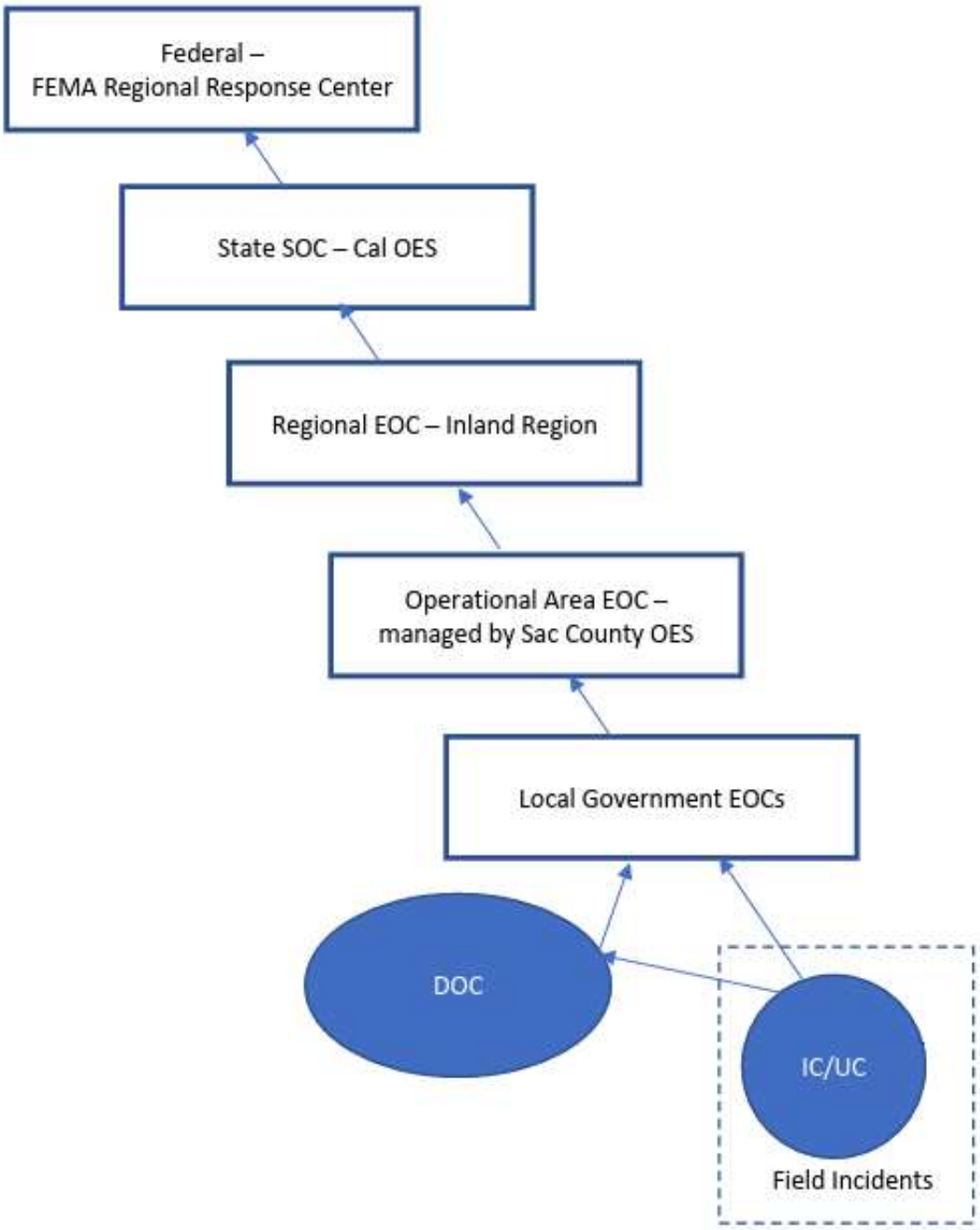
The OA plays a pivotal role in resource coordination and situation analysis. Communication with California Office of Emergency Services (Cal OES) is essential and important. In the initial stages of an emergency, the OA informs the state by submitting an Event/Major Incident Report, and, as the situation develops, uses Situation Status reports to keep the state informed. Functional Coordinators serve as the communication link between the OA and the cities and districts within the OA.

4.5.1 Information Flow

Cities and special districts gather status information from their field operations and/or department operations centers and report their status to the OA level. A joint agreement between the county and cities is in place to utilize WebEOC for incident documentation and information sharing. Cities and special districts may use WebEOC to report their status to the OA. Information may also be gathered by functional coordinators at the OA level from cities and special district functional liaisons (law enforcement, fire, construction and engineering, flood control, health/medical, care and shelter, energy, utilities and potable water), or in the case of small jurisdictions, from a designated liaison who reports on all emergency functions.

The OA compiles status information from all impacted jurisdictions and reports the status of the OA to Cal OES Inland Region. OES compiles information from the regions and prepares a state disaster status report for the governor. This conduit also works in reverse. Cal OES status reports are disseminated to OAs, and OA status reports are disseminated to impacted jurisdictions in the OA.

SEMS Communication and Coordination Chart



4.5.2 Relationship to Resource Management

Information about a disaster and tracking of resources used to respond to a disaster are connected items. At a minimum, disaster information is needed to estimate resource requirements. Resource status information is an element within disaster situation reports and is used to help create an overall picture of what is happening.

4.5.3 OA Reports

Narrative reports and statistical compilation are the means by which information flows from the OA to the state level and back. Samples are located in Attachment 5 - Forms.

Event/Major Incident Report - is the first report submitted to OES by the OA. Information contained in this report is intended to paint an initial picture of the scope and magnitude of the situation. The OA names the event, reports the date and type of emergency, describes the jurisdictions/disciplines impacted, and the status of functional areas.

Situation Reports - are usually brief narratives that present a concise "picture" of the emergency situation and are prepared for specific time periods. This report provides the planning staff a place for a compilation of updated information on the incident usually derived from the functional Status Reports. At the beginning of an emergency response, the REOC and the OA should agree upon times for submitting Situation Reports. The Situation Report is intended for use after the Event/Major Incident Report has been filed with OES.

"Flash" Reports - are used by local jurisdictions and the OA for transmitting critical, time-sensitive information outside regularly scheduled Situation Reports, i.e., the report of an impending dam failure. They can be both oral and written. An oral flash report would precede written reports. The written report serves later as a confirmation and as documentation.

Initial Damage Estimate Report - is completed by OA staff during the first several days of the emergency to transmit statistical information about the severity and type of damage to public and private property, and to estimate the cost of those damages. Local jurisdictions may use this form to submit damage estimates to the OA or may use any format that conveys their damage information.

After Action Report - As part of the recovery phase, and in accordance with SEMS, the State of California requires any city and/or county proclaiming a local emergency for which the Governor proclaims a State of Emergency, to complete and transmit an after-action report (AAR) to the California Office of Emergency Services (Cal OES) within 90 days of the close of the incident period. Sac OES would be tasked with completing an AAR.

4.5.4 Information Transmission

Forms and information can be sent to Cal OES through CalEOC (WebEOC) by email, telephone or FAX. Regardless of how information is sent, certain cautions should be observed:

- Unverified data should not be transmitted. All data should be verified prior to transmission. If unverified data must be transmitted, it should be clearly designated as unconfirmed.

- Sensitive information must be transmitted with an appropriate level of security. Use of such information may need to be restricted.

4.6 OA RESOURCE COORDINATION

The OA functional coordinator tracks and coordinates resources within the county area for their function/discipline. The functional coordinator should determine what type of request is being made when a request for resources is received. Is the local requesting jurisdiction asking for:

- assistance in identifying a vendor who may be able to supply needed resources,
- resources (equipment or personnel) that OA jurisdictions have on hand and do not need to keep in reserve for their own emergency response, or
- specific State or Federal resources for which the request must be passed on to the REOC?

The type of request will determine what action the functional coordinator takes:

Type of resource request	Action
Resources available through purchase	Refer to Logistics. Purchasing unit will consult vendor listings and refer requestor to local vendors who supply the needed resources.
Equipment/personnel available in the OA	1. Canvass OA for available resources. 2. Complete OA resource request form and assign OA tracking #. 3. Arrange contact with lending jurisdiction. 4. Track deployment of OA resources. 5. Follow-up with jurisdictions to ensure return of resources.
State or Federal resources	1. Complete the State Resource Request Form. 2. Contact functional coordinator in the REOC to place request. 3. Document State mission # on request form. 4. Coordinate between REOC and requestor. 5. Give copy of completed request form to Planning.

Functional coordinators use the Resource Request Form when taking a request from an OA jurisdiction. Functional coordinators may also use the following forms for identifying and tracking OA resources:

- **OA Resources Inventory** of critical resources located within the OA;
- **OA Resources Request Tracking Form** for determining where resources are being used, where they come from, and when they are once again available for use.

4.6.1 Relationship to Disaster Intelligence

Resource management and disaster intelligence are connected activities. The deployment of resources could be based upon information received from disaster intelligence. In addition, the nature and frequency of resource requests are part of the information gathered for status reports.

4.6.2 Resource Requests - Procurement Role

The general rule for resource requests is to process them at the lowest possible level before forwarding them to the next level. Generally, a resource request is not forwarded to the next higher level until all possible sources of that item have been reasonably exhausted at the lowest level. In some cases, available State resources may be requested without a procurement effort being made if it might be unreasonable to attempt to procure that type of resource through purchasing a service or supply (examples: helicopters, boats, water buffaloes, canvass tents, cots and blankets available through Red Cross or the National Guard, or other supplies specifically maintained by the State or Federal government for response to disasters).

The Logistics section handles requests for resources not available within functional areas. As an example, if the OA Care and Shelter Coordinator had received a request for shelter security from an OA jurisdiction, the coordinator would direct the request to the Logistics section rather than to the regional Care & Shelter coordinator because security services are not a typical Care and Shelter resource. The Logistics Chief, who also functions as the Logistics Coordinator for the OA, would coordinate with Sheriff and Police representatives of the requesting jurisdiction to have security personnel assigned to the shelter. If law enforcement personnel were fully committed elsewhere and unable to staff security for the shelter in their jurisdiction, Purchasing would refer the jurisdiction to a vendor who provides security services.

4.6.3 Report Formats

Within the EOC, the overall status of resources should be reflected in functional status reports submitted to the planning section and on status boards. Various functional areas may maintain their own internal report formats, which typically focus on:

- required resources;
- requested/pending resources;
- projected shortfalls;
- resources on hand;
- resource locations; and
- released/returned resources.

4.6.4 Needs and Shortfalls

All functional areas need to maintain data on available resources before a shortfall reaches a critical level and becomes life-threatening.

5.0 MUTUAL AID

5.1 INTRODUCTION

The foundation of California's emergency planning and response is a statewide mutual aid system which is designed to ensure adequate resources, facilities and other support is provided to jurisdictions whenever their own resources prove to be inadequate to cope with a given situation. The Master Mutual Aid Agreement creates a formal structure wherein each jurisdiction retains control of its own facilities, personnel and resources, but may also receive or render assistance to other jurisdictions within the state.

5.2 MUTUAL AID SYSTEM

A statewide mutual aid system allows for the progressive mobilization of resources to and from emergency response agencies, local governments, OAs, regions and state with the intent to provide requesting agencies with adequate resources.

Requests for mutual aid will be initiated through the Sacramento OA when local resources are committed to the maximum and additional resources are required. Fire, law enforcement agencies, medical, utilities, and water districts request mutual aid directly through established channels.

5.2.1 EMERGENCY MANAGEMENT MUTUAL AID (EMMA)

One of the mutual aid systems available to Emergency Operation Centers (EOC) for EOC Personnel is EMMA. This system allows for the request or provision of single EOC Staff positions. All EMMA coordination either for personnel assisting other county or city jurisdictions, or receiving staff to a local EOC will happen through the Sacramento OA.

Requesting jurisdictions will provide to the Sacramento OA their position needs. If EOC resources cannot be obtained from other jurisdictions through the OA, then Sacramento OA will submit an EMMA request to the State Regional Emergency Operation Center (REOC).

All EMMA requests from outside jurisdictions must be approved and validated by the Sacramento OA before personnel may be deployed to leave the county. Those individuals approved for deployment will be issued an EMMA number for tracking purposes.

5.3 FUNCTIONAL COORDINATORS MUTUAL AID RESPONSIBILITIES

To facilitate resource requests, discipline-specific mutual aid systems work through designated functional coordinators at the OA, regional and state levels. The basic role of the functional coordinator regarding mutual aid is to receive resource requests, coordinate the provision of resources from within the coordinator's geographic area of responsibility and pass on unfilled requests to the next level.

The Sacramento OA has designated functional coordinators to handle resource requests that do not fall into one of the already established mutual aid systems. Functions:

- Flood Control for non-project levee and drainage facilities
- Potable Water
- Care and Shelter
- Construction and Engineering
- Utilities

- Energy

OA functional coordinators may coordinate from an EOC, their normal departmental location or other locations depending on the circumstances. When local government EOCs are activated, all OA functional coordinators will establish communications with local government functional contacts. When the OA EOC is activated, OA functional coordinators will respond to the OA EOC to facilitate coordination and information flow.

5.4 POLICIES AND PROCEDURES

Local jurisdictions will make resource requests through the Sacramento OA. Request must specify:

- Requesting agency
- Jurisdiction/agency responsible for payment
- Type of request:
  - assistance with vendor identification,
  - resources available through OA member agencies, or
  - specific State resources (request is passed on to the REOC).
- Number and type of personnel needed.
- Type and amount of equipment needed.
- Reporting time, location, check-in information, and contact information.
- Authority to whom forces should report.
- Access routes.
- Estimated duration of operations.
- Risks and hazards.
- Jurisdictional authority to make request.

Mutual aid resources will be provided and utilized in accordance with the California Master Mutual Aid Agreement.

During a proclaimed emergency, inter-jurisdictional mutual aid will be coordinated at the OA level.

5.5 AUTHORITIES AND REFERENCES

Mutual aid assistance may be provided under one or more of the following authorities:

- California Master Mutual Aid Agreement.
- California Fire and Rescue Emergency Plan.
- California Law Enforcement Mutual Aid Plan.
- California Emergency Management Mutual Aid (EMMA) Plan
- Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended), provides federal support to state and local disaster activities.
- Public Law 98-99: Flood Fight and Recovery Authorities, Corps of Engineers

6.0 MULTI-AGENCY COORDINATION

As appropriate, the OA may organize a MAC Group as outlined in SEMS and NIMS. Cal OES guidance suggests that a MAC System is a tool to assist emergency managers with prioritizing multiple emergency incidents for the allocation of scarce resources. Similarly, the OA may function concurrently as a MAC Group.

Multi-agency coordination may be used by the OA during emergencies for:

- establishing priorities for response,
- allocating critical resources,
- developing strategies for handling multi-agency response problems,
- sharing information, and
- facilitating communications.

6.1 MULTI-AGENCY COORDINATION IN THE OA EOC

Emergency information, resources, and priorities are normally coordinated at the EOC by:

- Director of Emergency Operations/Services,
- OA Coordinator and support staff,
- OA functional coordinators, and
- Liaison with agency/jurisdiction representatives from cities, special districts, volunteer agencies and private organizations.

Coordination with agencies not represented in the EOC may be accomplished through various methods of communications.

Decisions regarding the prioritization of scarce resources and resolution of conflicts between jurisdictions over response priorities or strategies for handling multi-agency response problems will be deferred to a MAC group.

6.2 MULTI-AGENCY COORDINATION GROUP

The responsibility of a multi-agency coordination (MAC) group is to set priorities and resolve conflicts. A MAC group may:

- be convened to establish priorities for response or allocation of critical resources during major disasters when resources are scarce,
- be comprised of the senior executive/management staff from the impacted jurisdictions,
- develop consensus on priorities, resource allocation and response strategies, and
- function within the OA EOC, at another location or through conference calls, but will remain in contact with the OA EOC.

6.3 SPECIAL DISTRICT INVOLVEMENT

Special districts are defined as local governments under SEMS. The emergency response role of special districts is generally focused on restoring normal services, however some special districts can be extensively involved in emergency response or assisting other local governments.

Coordination and communications must be established among special districts that are involved in emergency response, other local governments and the OA. This may be accomplished in various ways depending on the situation. Relationships among special districts, cities, county government and the OA are complicated by overlapping boundaries and by the multiplicity of special districts. Typically, special district boundaries cross municipal boundary lines. A special district may serve several cities and county unincorporated areas. Some special districts serve more than one county. In such a situation, the special district may wish to provide a liaison representative to the OA EOC to facilitate coordination and communication with the various entities it serves.

Field operations centers provide an opportunity for special districts that are heavily involved in the emergency response and may not have staff to spare for liaison to the OA EOC to coordinate activities and share situation status information with other local governments who are involved in the emergency response.

6.4 COORDINATION WITH VOLUNTEER AND PRIVATE AGENCIES

Liaison must be established between activated EOCs and private agencies involved in a response. Where there is a need for extensive coordination and information exchange, private agencies should be represented in the OA EOC at the appropriate SEMS level.

Coordination with agencies that do not have representatives at the EOC may be accomplished through telecommunications, liaison with community councils that represent several agencies or involvement of agencies in special multi-agency coordination groups on specific issues.

ANNEXES

Additional ones to be added

Emergency Support Functions

CA ESF	Definition	Federal ESF
ESF 1 - Transportation	Assists in the management of transportation systems and infrastructure during domestic threats or in response to incidents.	ESF 1 – Transportation
ESF 2 - Communication	Provide resources, support, and restoration of government emergency telecommunications, including voice and data.	ESF 2 – Communication
ESF 3 – Construction & Engineering	Organizes the capabilities and resources to facilitate the delivery of services, technical assistance, engineering expertise, construction management, and other support.	ESF 3 – Public Works and Engineering
ESF 4 – Fire & Rescue	Monitors the status of fire activities. Coordinates support activities related to the detection and suppression of urban, rural, and wildland fires and emergency incident scene rescue activities and provide personnel, equipment, and supplies.	ESF 4 - Firefighting
ESF 5 – Management	Coordinates and resolves issues among the CA-ESFs in the four phases of emergency management to ensure consistency in the development and maintenance of the SEP annexes. During emergencies, serves in an advisory capacity to the EOC Director	ESF 5 – Information & Planning
ESF 6 – Care & Shelter	Coordinates actions to assist responsible jurisdictions to meet the needs of victims displaced during an incident including food assistance, clothing, non-medical care and sheltering, family reunification, and victim recovery.	ESF 6 – Mass Care, Emergency Assistance Housing and Human Services
ESF 7 - Resources	Coordinates plans and activities to locate, procure, and pre-position resources to support emergency operations.	ESF 7 – Logistics Management & Resource Support
ESF 8 – Public Health & Medical	Coordinates Public Health, Environmental Health, and Emergency Medical Services activities statewide in support of local jurisdiction resource needs for preparedness, response, recovery, and mitigation from emergencies and disasters.	ESF 8 – Public Health & Medical Services
ESF 9 – Search & Rescue	This Emergency Support Function was merged into CA-ESF 4 Fire and Rescue for Urban Search and Rescue requests and CA-ESF 13 Law Enforcement for Wilderness Search and Rescue.	ESF 9 – Search & Rescue
ESF 10 – Hazardous Materials	Coordinates resources and supports the responsible jurisdictions to prepare for, prevent, minimize, assess, mitigate, respond to, and recover from a threat to the public or environment by actual or potential hazardous materials releases, including oil spills.	ESF 10 – Oil & Hazardous Material Response
ESF 11 – Food & Agriculture	Supports the responsible jurisdiction and coordinates activities during and immediately following a disaster, impacting the agriculture and food industry, and supports the recovery of impacted industries and resources post disaster.	ESF 11 – Agriculture & Natural Resources
ESF 12 - Utilities	Provide resources and support to responsible jurisdictions and in partnership with the private sector to restore gas, electric, water, wastewater and telecommunications.	ESF 12 – Energy

ESF 13 – Law Enforcement	Coordinates law enforcement personnel and equipment to support responsible law enforcement agencies, coroner activities, Wilderness Search and Rescue, and public safety in accordance with Law Enforcement and Coroner's Mutual Aid Plans.	ESF 13 - Public Safety & Security
ESF 14 – Long Term Recovery	Supports and enables economic recovery of communities and California from the long-term consequences of extraordinary emergencies and disasters.	ESF 14 - Long Term Community Recovery
ESF 15 – Public Information	Supports the accurate, coordinated, timely, and accessible information to affected audiences, including governments, media, the private sector, and the local populace, including the special needs population.	ESF – External Affairs
ESF – 16 – Evacuation	This Emergency Support Function was merged into CA-ESF 13 Law Enforcement in August 2013.	N/A
ESF 17 – Volunteer & Donations Management	Supports responsible jurisdictions in ensuring the most efficient and effective use of affiliated and unaffiliated volunteers and organizations and monetary and in-kind donated resources to support incidents requiring a State response.	N/A
ESF 18 - Cybersecurity	Coordinates resources to prepare, mitigate, respond to, and recover from a significant cybersecurity event.	N/A

Alert and Warning Annex

Joint Information Systems

Evacuation

ATTACHMENTS

OA Agreement

OA Council Roster

OA Emergency Contact List

OA Forms

SACRAMENTO COUNTY

OFFICE OF EMERGENCY SERVICES







Animal Sheltering Annex









May 21, 2024

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HANDLING INSTRUCTIONS

1. The title of this document is the *Animal Sheltering Annex*
2. The information gathered herein is to be used for training and reference purposes within the Sacramento Operational Area (OA). Reproduction of this document, in whole or in part, without prior approval from the Sacramento County Office of Emergency Services is prohibited.
3. Alternative formats (e.g. Large Print) can be made upon request with the point of contact below.
4. Point of Contact:

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RECORD OF CHANGES

#	DATE	NAME	SUMMARY
1	March 22 '24	J. D'Alessio	Introduction: Added AFN needs
2	March 22 '24	J. D'Alessio	Roles & Responsibilities: Added Cities, Red Cross, Cal Vet Med Res Corps, Cal Vet Emergency Team, CBO/NGOs
3	March 22 '24	J. D'Alessio	Concept of Operations: Added Activation Authority
4	March 22 '24	J. D'Alessio	Added Protocols for Animal Shelters Section, and: Large Increase in Shelter Population, Euthanasia, Shelter Set Up, Animal Intake, Triage/Registration/Identification, Health & Safety, Cleaning, Feeding, Animal Transportation, Livestock Management, Commercial Animal Agriculture Operation Access, Animal Documentation Guidelines, Utilization of Animal Rescue Volunteers
5	March 22 '24	J. D'Alessio	Added Demobilization Section, and: Shelter Closures, Redistribution of Supplies, Procedure for Unclaimed Animals, Final Data Collection
6	March 22 '24	J. D'Alessio	Added Annex Maintenance Section, and: Annex Distribution, Annex Updating, Annex Testing/Training/Exercising
7	March 22 '24	J. D'Alessio	Added Authorities and References Section
8	March 22 '24	J. D'Alessio	Added Attachments

INTRODUCTION

Sacramento County is home to a wide array of disasters such as floods, fast moving grass fires and severe weather. It has become widespread knowledge from past disasters that often people will not evacuate their homes unless they can bring their pets and livestock with them. For many people, pets are considered a member of the family. No one wants to leave animals behind, and when asked to do so, many owners will risk their own lives and the lives of others to save their animals. When people are unwilling to enter a shelter, or refuse to evacuate during an emergency, they remain at risk and place rescue workers at risk. Additionally, many who own livestock are not prepared with specialized transport and holding areas, which may be difficult or impossible to arrange during a disaster.

Disaster preparedness strategies for pets and livestock safety must be in place before a disaster occurs. Disaster preparedness for animal safety can reduce undue loss and suffering of animals, which lessens additional trauma to victims already suffering from the disaster. State and local governments are increasingly realizing that planning for the evacuation and sheltering of animals in any disaster is essential to the well-being of all residents.

The Sacramento County Animal Sheltering Annex is designed as a countywide document to be annexed to the Sacramento County Emergency Operations Plan. This Annex will provide an overview and guidance for the care and sheltering of animals following a major disaster. This Annex can be adapted for local jurisdictions within Sacramento County.

The planning for this Annex was largely completed by review of statewide and national Animals in Disaster Committees, and groups representing public, private and non-profit animal care agencies throughout California and the United States. The various committees and templates have provided guidance and resources for the development of this plan.

Purpose

This Annex is designed to assist the Sacramento Operational Area in preparing for the care and sheltering of animals before, during and after a disaster. This document outlines guidance for the care and sheltering of animals throughout the County in a major disaster.

The purpose of this Annex is to:

- Provide standardization for protocols and practices for evacuating and sheltering animals in a disaster in Sacramento County and its local jurisdictions;
- Provide direction for the overall coordination of resources for animal care in the OA;
- Ensure the planning for animal care is included within and consistent with the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS), both in the County/OA and in the field; and
- Identify key players and resources for sheltering animals in a disaster.

Whole Community Approach

The whole community concept is a process by which residents, emergency management representatives, organizational and community leaders, and government officials can understand and assess the needs of their respective communities and determine the best ways to organize and strengthen their resources, capacities, and interests. Engaging in whole community emergency management planning builds a more effective path to societal security and resilience. This Annex supports the following whole community principles:

- Understand and meet the needs of the entire community, including people with disabilities, the elderly, and people with other access and functional needs;
- Engage and empower all parts of the community to assist in all phases of the disaster cycle; and
- Strengthen what works well in communities daily.

In keeping with the whole community approach, this Annex was developed with the guidance of representatives from the OA cities and representatives from county departments, law enforcement, fire services, emergency management, the access and functional needs communities, and various other stakeholders. The effectiveness of the emergency response is largely predicated on the preparedness and resiliency of the community. Community resiliency consists of three key factors:

- The ability of first responder agencies (e.g., Emergency Medical Services (EMS), fire, and law) to divert from their day-to-day operations to the emergency effectively and efficiently;
- The strength of the emergency management system and organizations within the OA, to include Emergency Operations

Centers (EOCs), mass notification systems and communication systems; and
- The civil preparedness of the OA's citizens, businesses and community organizations.

Focusing on enhancing all three of these components constantly focuses the OA on improving the region's resiliency.

Intended Audience

The intended audiences for this document are the agencies and jurisdictions within the Sacramento OA that have a role in ensuring animals are evacuated, cared for and returned home in a disaster.

People with Disabilities and Access and Functional Needs

In a catastrophic event, it is expected that alert and warning protocols will be in place to address and meet various access and functional needs, particularly as they relate to the ways in which messages are conveyed to the public such as in another language, for the deaf and or hard of hearing, the blind, elderly and many other formats. Some of the methods available are as follows:

- TTY/TTD;
- Font size;
- Color analyzer;
- Sound & vibrations;
- Flashes;
- Use of attachments (video);
- 508 compliance (use of screen-readers);
- Posting of accessible electronic content, documents, and videos; and
- Video relay as an option.

Assumptions

In disasters, the priority is the protection of life, property and the environment. This has not historically always included planning for the coordinated response for the evacuation, care and sheltering of animals. Based on previous experiences with disaster and local planning efforts, the following planning assumptions are made regarding animals in disaster:

- Local resources within Sacramento County will be very limited the first few days following a major disaster
- Many residents assume government resources will be available to rescue them and their pets in an emergency

- Most pet owners do not make evacuation plans and have not stockpiled resource and supplies to care for their pets
- Evacuation orders may not give information about taking pets
- A percentage of pet owners will fail to evacuate because of their animals
- Many pet owners will arrive at human shelters with their pets
- Some pet owners, especially those with livestock, will leave pets behind
- Service animals will be allowed in human shelters
- All other pets and animals will typically not be allowed in human shelters
- A large number of animals will need shelter and will arrive without provisions
- Many owners will be separated from their animals because of the disaster
- Animals will arrive at shelters without medical history
- There will be an increased danger of disease and contamination

Types of Animals

The California Animal Response Emergency System (CARES) defines "animals" as "affected commercial livestock, companion animals, exhibition animals, captive wildlife, and exotic pets." This definition is used for state level response activities. Service animals, defined by the American with Disabilities Act (ADA) as guide dogs, signal dogs and other animals trained to aid individuals with disabilities are exempt from restrictions with regards to facility and transportation access. Service animals should never be separated from their handlers.

For the purposes of the protocols outlined in this Annex, animals will be categorized by the following species:

- Dogs and cats
- Rabbits/small mammals
- Reptiles/amphibians
- Domestic/exotic birds
- Horses/equine
- Chickens/other fowl
- Livestock/farm animals
- Other exotic pets

ROLES AND RESPONSIBILITIES

Sacramento Operational Area

Serving as the lead for the County/OA, the County of Sacramento is responsible for coordinating and managing resources in the County during a disaster. The County is the primary point of contact for allocating resources within the jurisdictions of Sacramento County and requesting resources from the state.

The Operational Area includes all the cities and special districts such as schools, water and reclamation districts. Both within the EOC and at the scene of the disaster, the Incident Command System (ICS) will be used to manage response activities.

The County has one mobile animal shelter trailer that may be deployed in support of local operations throughout the County. The allocation and deployment of these resources will be determined by the County and coordinated by the EOC.

Sacramento County Animal Care Services

- Develop and maintain a plan for coordinating animal search, rescue, and evacuation.
- Develop and maintain a plan for large animal care and shelter in coordination with the Agricultural Commissioner.
- Develop and maintain a plan for small animal care and shelter in coordination with the Mass Care Coordinator.
- Coordinate notification of other team members during an emergency.
- Assess the magnitude of the impact of the incident on animals, and assess response activities, and resources status. Regularly report status to the Sacramento County EOC.

Other Animal Control Agencies

- Conduct search, rescue, and transportation of cats and dogs as required by an emergency.
- Keep Sacramento County Animal Care Services informed of response activities.
- Request assistance from Sacramento County Animal Care Services as needed.

Sacramento County Agricultural Commissioner

- Assist in educational efforts to notify livestock industries of preparedness and response procedures.
- Maintain a list of resources and personnel available to assist local

and state jurisdictions in the response and recovery phases in emergencies affecting significant numbers of livestock.
- Assist in providing coordination of information with state and federal agencies.
- Determine high-density animal populations at high risk in the event of an emergency.
- Coordinate with Animal Care Services, American Red Cross, and Mass Care Coordinator in developing a plan and priority in transporting animals to animal care facilities when owners are evacuated to shelters.

Sacramento County OES

- Integrate messages and information regarding animal owner preparedness into disaster preparedness training and education.
- If necessary, in coordination with Animal Care Services, establish a call center number for animal retrieval and other animal-related information.
- Serve as liaison between local jurisdictions and response agencies, CalOES and other appropriate state and federal agencies for requesting resources when the capabilities of local response agencies are exceeded.
- Integrate the concepts of operation in this plan into emergency management training programs as appropriate.
- Debrief participants and prepare after action reports.

Sacramento County Public Health

- Track notifiable and reportable conditions in animals that lead to human disease
- Act as liaison to California Department of Public Health.
- Advise on human health issues and procedures for management of animal wastes and dead animals.
- Provide recommendations to assure adequate vaccination of animal care workers when available

Law Enforcement

- Provide personnel and equipment resources as available and only after human health and safety issues have been fully addressed.
- Coordinate with Animal Care Services and other animal rescue responders in the management of animal search, rescue, and evacuation operations.
- As resources allow, provide law enforcement support for road closures, operating isolation facilities, decontamination

operations, animal depopulation actions, and closing feedlots.
- Provide personnel in restriction of entry into the restricted or quarantined area.

Sacramento County Fire Agencies

- Provide personnel and equipment resources as available and only after human health and safety issues have been fully addressed.
- Provide support to animal control agencies in rescue of trapped animals.

Cities

Local government is often the first point of contact for residents needing help or services in an emergency. Local government may have limited capacity or resources to meet the needs of evacuating and sheltering animals in a disaster. Some jurisdictions in Sacramento County have animal response plans, animal shelters and animal control divisions and/or officers. Through their city EOC, local jurisdictions may request assistance from the County/OA EOC with setting up temporary animal shelters.

City government staff may also help provide services, such as communications, animal control resources or volunteer coordination to assist with countywide response efforts.

American Red Cross

The American Red Cross (ARC) works with the County Mass Care Coordinator to provide shelter and mass care services to residents throughout Sacramento County. ARC generally assumes the responsibility to help government with care and shelter operations. Initially in a disaster, some shelters may be opened by ARC and some may be opened by city/county staff and then turned over to ARC as additional resources become available to help with local response. The ARC liaison in the EOC will coordinate with other agencies. In the EOC, the ARC Liaison will work with the County Mass Care Coordinator and Animal Care Services to co-locate animal shelters with human shelters as much as possible to minimize the added stress of separating pets from their owners. Sacramento County Mass Care Coordinator and Animal Care Services in partnership with the ARC has pre-identified locations for potential animal shelters to accommodate both companion and large animals.

California Veterinary Medical Reserve Corps

The California Veterinary Medical Reserve Corps (CVMRC) provides guidelines for disaster preparedness sheltering and veterinary care of animals. They also operate local networks that serve as preparedness and response resources to OAs. The CVMRC Program consists of a network of veterinary professionals who are prepared to provide veterinary care for rescue, evacuation, treatment and shelter of animals. In the event of an emergency or disaster a request is made to activate the CVMRC all coordination of these assets is made through the jurisdictional authority. The CVMRC is called upon to assist in the response and provide expertise from the veterinary standpoint.

California Veterinary Emergency Team (CVET)

California Veterinary Emergency Team (CVET) can provide veterinary assistance when local resources are overwhelmed during disasters throughout the state of California. The program, administered by the UC Davis One Health Institute within the School of Veterinary Medicine, supports and trains a network of government agencies, individuals and organizations to aid domestic animals and livestock during emergencies.

Community-Based and Non-Government Organizations

Community Based Organizations (CBO) and Non-Government Organizations (NGO) are integral to disaster response. Sacramento County Animal Care Services maintains an ongoing list of CBOs and NGOs that offer services and resources in the County/OA for the protection and well-being of animals as well as those that operate volunteer networks which may be available to assist local disaster efforts.

Concept of Operations

Sacramento County recognizes the critical importance of coordinating animal evacuation and shelter services during the response to an emergency or disaster. When the Sacramento County/OA EOC is activated, the Animal Unit in the Operations Section, Care and Shelter Branch may be activated to support city or county response operations. The EOC Animal Coordinator will serve as the single point of contact on all animal issues in the OA. This position is staffed by the Sacramento County Department of Animal Care Services or designee. The Sacramento County OA EOC's Animal Coordinator will employ one or more of the following response strategies to meet the needs of animals and the broader community in disaster:

- Work with the Public Information Officer (PIO) to disseminate information to the public regarding the evacuation and care of animals
- Coordinate the evacuation of animals, as needed and as possible, and manage access by animal rescue staff to restricted areas.
- Coordinate resources within the OA to support local jurisdictions
- If resource needs cannot be met with resources within the OA, coordinate resources requests in accordance with SEMS/NIMS operating procedures
- Assess the status of animal shelters site options and establish additional locations as needed in coordination with the Mass Care Coordinator in the OA EOC
- Coordinate and provide information for Public Health decisions
- Coordinate the deployment of county mobile shelters and field operations resources
- Identify and coordinate veterinary service needs
- Assist with identification of vendors for procurement of animal supplies with the Logistics Section in the OA EOC
- Coordinate agriculture related activities, such as response, sheltering, and feeding of livestock with the ESF-11 Coordinator

Activation Authority

The activation of this Annex shall be at the request of the local animal control and/or initiated by the Director of the County of Sacramento Department of Animal Care Services or designee. Coordination with the Sacramento County EOC/Operational area activation will be coordinated directly via the Director of Animal Care Services and OES Management.

County EOC

The County/OA EOC is activated when a disaster occurs to coordinate resource requests, resource management and information sharing. The County/OA EOC is staffed by county employees with emergency responsibilities, as well as representatives from other agencies and jurisdictions. The Animal Unit is normally activated when the EOC is fully activated or when needed.

City EOCs

A city can activate the city EOC in response to local events. A city animal control agency may request the activation of this Annex to support local response operations. City plans may call for an animal control representative to be present when its EOC is activated.

On scene, the respective animal control agency is responsible for animal care and control operations. If the scope of an incident overwhelms the initial responding animal control agency, that agency would expand operational procedures and activate this Annex. The request for activation of this Annex would flow from the field to the city EOC to the County/OA EOC.



Protocols for Animal Shelters

Managing and Prioritizing Shelter Population and Evacuation

Depending on the damage to existing shelters, it may be necessary to evacuate animals to a temporary shelter or other interim location. Animals should be removed in an order that is in the best interest of the animals, the public, and the shelter.

Large Increase in Shelter Population

If a shelter has not been affected by the incident, immediate preparations should be made to house a large increase in animals. When possible, animals in the shelter prior to the incident should be evacuated so they will not share wards with incoming animals. This is especially important in an emergency in which the potential for the spread of disease is significant, such as flooding. A second dog may need to be housed with a single dog, but more than two dogs should

not be housed together unless necessary. Cats should not be housed in the same cage unless they were previously housed together, and if there is sufficient space within the cage. Sick animals in the shelter before the incident should not be mixed with the general population, but it may be necessary for bite quarantine animals, protective custody/legal pending animals, and strays and adoptable animals to be housed together. After animals have been evacuated, empty kennels should be cleaned with pressurized water and bleach and supplied with water, food, and beds or blankets.

Euthanasia

In the event of sheltered animal's euthanasia, documentation is necessary to include animal description, photo to ensure proper identification. Euthanasia can only be performed by a veterinarian, trained veterinary technician, certified euthanasia technician, or trained animal control officer using standard and accepted euthanasia protocols.

Carcass Disposal

Prior to disposal, effort should be made to determine pet and/or owner identification. Attempts should be made to notify identified owners of the animal's death. Types of identification can include collars, tags, licenses, microchips or tattoos on ears or bellies. Each animal should be photographed upon intake (minimum of 2 photos to include a face and profile shot).

Proper disposal of animal carcasses is critical in:

- Preventing the spread of disease in other animals
- Potential contamination
- Public health to avoid potential harmful environmental effects

Dumpsters or 55-gallon drums are to be utilized for disposal of animal remains. Drums are to be maintained in a secure, separate location away from healthy animals. Pending the conditions of the disaster, a rendering service will be coordinated for pick up. If available, it is suggested that drums be placed in a refrigeration unit ordered specifically for the animal remains.

Although all efforts should be made to use a freezer or refrigerated truck to store dead animals, it may not be possible. If a freezer or refrigerated truck is not available, the animals must be securely tied in several thicknesses of plastic bags and kept at a distance to not pose a health risk. Fly spray should be used often. The animals should be

moved to a freezer at the shelter when possible or picked up by an animal disposal company.

Shelter Set Up

The sheltering capability is a large and complex component of the overall disaster response. Some major aspects of sheltering include intake, triage, routine care, veterinary care, biosecurity, inventory control, communication with the public, and owner reunification.

Shelter set up is dependent upon the type of disaster and types of species being sheltered. There are 4 types of emergency animal shelters:

- Collocated Shelter: people and their pets are kept at the same location but separate rooms or buildings
  - Service Animals must never be separated from their owners
- Proximate Animal Shelter: shelters located near human shelters
- Open Shelter: shelters in which both "owned" and "non-owned" animals are cared for. This includes existing animal shelters.
- Shelter in Place: keeping animals, primarily livestock, where they are while delivering food and veterinary care.

After the decision has been made to activate a temporary animal shelter, the requesting jurisdiction can coordinate with the OES Duty officer or County EOC to select the location(s). Decisions will be based upon the type of disaster, scale of disaster and available options for one or more sheltering locations. During an EOC activation the Section Chiefs should then work together to staff the shelter, supply it adequately, and work with the Public Information Officer to notify the public and media that it is available. The Safety Officer should inspect the facility and its grounds for safety issues. The Animal Care Unit should assign animal shelter positions to staff and volunteers, create staffing schedules, obtain the appropriate forms, and reference the task list for setting up the shelter.

Animal Intake

Intake processes are crucial at the beginning of all animal sheltering. Tracking animals from the first contact through the process is of the utmost importance. Each step in the process from intake to exit must be tracked and documented. Depending on the type of shelter or animal that is coming to the shelter the steps may vary, however the concept of emergency sheltering and animal tracking will be similar in all instances. The necessary steps are as follows:

Triage, Registration, and Identification

The intake process initiates the triage, registration, and care of animals. Animals may be brought in by the owner, in person; by a third party; or by an unknown owner. A full description of the animal will need to be documented to include species and breed, gender, color, and other information used to identify the animal. The description along with any available identification needs to be recorded and kept in the animal's file. Types of identification can include collars, tags, licenses, microchips or tattoos on ears or bellies. Each animal should be photographed upon intake (minimum of 2 photos to include a face and profile shot). Cats and dogs without a microchip must be implanted with one during intake and documented.

Health & Safety

Trained shelter staff will need to handle animals that may have bitten within the last ten days; have been reported as aggressive by the owner; shows signs of aggression; are extremely difficult to handle; or shows signs of physical pain. These animals may need to be kenneled immediately and quarantine protocols initiated as needed.

Immediate medical concerns can be detected by examining the eyes, ears, skin, teeth, nose, and paws. Animals with contagious or zoonotic conditions should receive prompt attention. Animals should be vaccinated according to the instructions from the veterinary staff.

Injuries to disaster service workers or volunteers must be reported and filed within 24 hrs. If any sworn disaster service workers / volunteers are injured while at an animal shelter, they must notify the shelter manager immediately and seek care. The shelter manager must then immediately notify the EOC who will direct the information to the Sacramento County OES Disaster Service Worker (DSW) Authorized Designee (AD). The DSW AD will then investigate to determine if a Worker's Compensation Claim is warranted. If warranted, the DSW AD must provide the volunteer with the State Fund 3301 Form within one calendar day of injury knowledge.

Facility Safety and Security

While animals need adequate exercise and socializing, it is important to maintain a safe and secure facility. The safety and security of a facility can be affected by many unskilled volunteers and untrained owners. Volunteers who care for and feed the animals need to be well-oriented to the shelter's procedures and protocols. Examples of potential problems include overfeeding, under cleaning and trying to

handle large or unruly dogs. Photographs and videography are prohibited unless otherwise approved by shelter manager.

Animal Care

The manager of a temporary shelter should determine who may have access to the animals. Although it may not be possible to have locks on every cage and kennel, creating identification system is necessary to appropriately remover animals from holding areas.

All animals should be housed with their identification documentation and an Animal Care Log (Attachment 3), used to record feeding, cleaning, and socialization. The Animal Care Coordinator should create protocols for determining which animals can be taken out of their cages or kennels, how much time they may be out, which activities are allowed, and the labeling system on the cage or kennel that is used to indicate that an animal is out. The Animal Care Coordinator should physically count the animals on the premises at least twice a day and document the count in the log. Counting can quickly identify animals that may be improperly housed or missing. Although a temporary shelter is a 24-hour operation, animals need periods of darkness and quiet. Exercise, feeding, and animal counts should be scheduled during the day, while night activity is limited to veterinary issues.

Cleaning

During emergencies, the risk of the spread of disease may be increased. Cleaning of the housing area should therefore be done in accordance with a day for dogs, co-housed rabbits, and some livestock. For reptiles, small mammals, birds and horses, cleaning should be done once a day. Spot checks should also be scheduled several times per day. The beginning and end of shifts for different positions must be clear.

Feeding

The shelter manager and Animal Unit Lead will work together to obtain food for the animals as needed. Although donated food will arrive daily, keeping the diet consistent is important for reducing stress and cleaning requirements (diet changes can cause loose stools). The following guidelines for feeding should be considered or expanded.

Dogs

Dogs should be fed two times a day, approximately 10 to12 hours apart. Wet food should be avoided if possible, to limit diet-related diarrhea. If an animal refuses to eat after the first 24 hours in a facility, a spoonful of wet food may be added for taste.

Cats

Cats should be fed twice per day, approximately 10 to 12 hours apart. Wet food should be provided to kittens under four months old but avoided for adults if possible, to limit diet-related diarrhea. If an animal refuses to eat after the first 24 hours in a facility, a spoonful of wet food may be added for taste.

Rabbits/Small Mammals

Rabbits and other rodents should be fed non-rich diets. The home diet should be continued if known. Rabbit diets should consist of hay (oat or timothy) and green rabbit pellets.

Reptiles/Amphibians

Care must be taken to identify not only the correct food source for reptiles but also the correct presentation and time of feeding. Additionally, co-housed snakes and many lizards must be separated at feeding times. Diets vary significantly among species and according to the size and age of an animal. If possible, home diets should be continued.

Domestic Birds

Birds should be fed twice daily but must be monitored for food intake regularly. If a bird is not eating the diet given, alternatives must be tried until a diet is found that the bird will eat. Whenever possible, a bird's diet should remain the same as the diet at home. Food must be provided by the owner, found in the owner's home, or found in the bird's food dish as a guideline for its diet.

Horses/Equine

Horses should be fed small amounts of food several times per day. They should be fed locally grown high quality grass hay. Meals should consist of no more food than a horse can consume in an hour. Additional information can be found on the CVET website:

https://cvet.vetmed.ucdavis.edu/sites/g/files/dgvnsk13661/files/inline-files/CVET%20Large%20Animal%20Care%20and%20Feeding%20Guide%2009_2023.pdf

Chickens/Other Fowl

Chickens should be given commercial chicken feed twice per day. The chicken's normal diet should be followed if known.

Livestock/Farm Mammals

- Goats: The diet should consist of commercial goat feed (non-medicated), a plant fiber source, and a salt block. Unless housed in pens that allow access to plant material, goats require a supplement of leafy hays or legumes. Goats should be fed twice a day rather than allowing the animals to free feed.
- Sheep: The diet should consist of commercial sheep feed (non-medicated), a plant fiber source, and a salt block. Unless housed in pens that allow access to grasses, sheep require a supplement of grass hay. Sheep should be fed twice a day rather than allowing the animals to free feed.
- Swine: Pigs should be fed twice a day. An appropriate standard diet consists of a non-medicated commercial pig feed and a small amount of alfalfa hay.
- Additional information can be found on the CVET website:

https://cvet.vetmed.ucdavis.edu/sites/g/files/dgvnsk13661/files/inline-files/CVET%20Large%20Animal%20Care%20and%20Feeding%20Guide%2009_2023.pdf

Animal Transportation

Animals may need to be moved out of temporary shelters. This section addresses transport and shipping issues. The assumption is that only canines and felines will need to be transported and all other animals will stay at the temporary shelter. At each shelter, staff will establish Exit Station protocols to address the following functions for both dogs (Table 1) and cats (Table 2):

Table 1: Dog Exit Station Protocol

Step	Function	Staff	Supplies
1	Direct walkers to appropriate animals	1	To-go list
2	Check microchip; make sure records match. • If incorrect, place the animal back in crate and notify shelter manager. • If correct, write transport number (sequential based on carrier) on shipping collar and animal records; attach collar and send dog to transport station; bring animal's records with animal to station	2	Two chip readers, Record portfolios, Masking tape, and collars (Red Indicates Aggressive)
3	Once at Transportation, verify matching transport number on collar and carrier. Confirm matching records. If incorrect, contact Shelter Manager. If everything is correct give portfolio to walker.	4	Leashes, Water, Bowls
4	Walk and water dogs nearby	2	Leashes, Water, Bowls
5	Write transport number on kennel with magic marker, hand animal record to driver, put dog in kennel	2	Hole punch, Markers
6	Load kennel into truck	2	Forklift operator, Animal Walkers, Leashes

Table 2: Cat Exit Station Protocol

Step	Function	Staff	Supplies
1	**Using heavy duty gloves, take cat out of kennel**	2	**Heavy Duty Gloves**
2	**Check microchip; make sure records match.** • **If incorrect, place the animal back in kennel and notify shelter manager.** • **If correct, write transport number (sequential based on kennel) on shipping collar and animal records**	2	**2 chip readers, Boxes of portfolios, Collars Scissors, Pens**
3	**Attach records with zip tie; attach collar and send cat to transport station; bring animal's records with animal to station**	2	**Hole punch, Zip ties Markers**
4	**Load kennel into truck**	2	

Transportation guidelines for the primary transport enclosure/carrier:

- Should be strong enough to securely contain the animal. The animal should not be able to reach outside the enclosure in a way that could result in injury to itself, to its handlers, or to other persons or animals nearby.
- Should have no sharp points or missing pieces in anything (e.g., wall, floor) that could cause injury.
- Should be large enough so that the animal has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position. The animal should not have to crouch when sitting or standing.
- Should have a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or mesh floor.
- Must contain enough previously unused litter to absorb and cover excreta unless the dogs or cats are on raised, slatted floors, or raised floors made of mesh; litter must be of a suitably absorbent material that is safe and nontoxic to dogs and cats.
- Must allow the dog or cat to be removed easily and quickly from the enclosure in an emergency.
- Must have exterior handles or handholds that enable the enclosure to be lifted without tilting and ensure that anyone handling the enclosure will not come into contact with the animal.

The animal transport vehicle for all species:

- Must not fall below 45 degrees Fahrenheit (°F) or rise above 85°F for more than 4 hours.
- Must adequately protect the animals from exposure to the elements.
- Must have paint, preservative, treatment, or other chemical or material used in or on the enclosure that is nontoxic to the animals and not harmful to their health or well-being.
- Must allow proper ventilation for the animals and not block airflow.

During surface transportation (ground or water), animals must be checked every 4 hours for sufficient air flow and temperature and to observe for illness, injury, or distress. If indicated, veterinary care must be provided for the animals in an appropriately timely manner. Horse trailers cannot be used as open containers for the transport of small animals. Any small animals must be in a transport container, then can be transported within the trailer.

Livestock Management

It is the primary responsibility of horse and livestock owners to plan for appropriate evacuation and sheltering of their animals. In many cases, the County will work with local farmers and neighbors in the transportation and sheltering of livestock animals. In the event of a biohazard or zoonotic disease that affects the livestock or agriculture population, local County authorities will coordinate efforts with the local Agricultural Commissioner and the CDFA for response and disaster management.

Coordination with local livestock and equine groups for the evacuation and sheltering of large animals at a predesignated site such as the Sacramento County Fairgrounds or other large boarding facility.

Commercial Animal Agriculture Operation Access

In the event of a large-scale emergency, disaster or public health emergency access to large scale commercial agriculture operations will be granted through the Agricultural Pass permit process. Access will be granted only to verifiable commercial operations and not small farms or ranches. Access will be granted on a case-by-case basis through pre-established procedures.

Permitting access to commercial agricultural operations ensures biosecurity measures are maintained, containment for the animals is

intact, waste management procedures and animal welfare concerns are addressed. Continuity of agricultural operations is of the utmost importance. In the event of any activism and or suspicious Agro Terrorism threats or activities, law enforcement and federal authorities will be notified for a coordinated response.

Animal Documentation Guidelines

Animal shelter support personnel are responsible for reporting shelter activity data to the EOC. Occupancy counts two times a day (morning and evening) are necessary for reporting and safety accountability. Daytime counts may be added at the discretion of the Animal Shelter Management Teams in response to individual security needs. Because multiple agencies may be operating shelters within the incident area, the Animal Shelter Support Coordinator must ensure that agencies are sharing activity information with DOC (Department Operation Center) and the EOC to prevent data from being counted twice.

Animal shelter information that is reported involves a variety of formats, including:

- Manual status report
- Animal shelter database
- Animal shelter status boards, updated daily, including the following information:
  - Total number of animal shelters open
  - Total number of animals in care at all sites
  - Total number of new animals in care at all sites
- Site information
  - Name of shelter
  - Lead agency
  - Site address
  - Number of animals in occupancy
  - Number of new animals in occupancy
  - Capacity by species and animal type
  - Percentage of capacity filled
  - Name of site manager and point-of-contact information
  - Site status (e.g. open, closed, stand-by)

It is also critical to create a filing system for the documentation that is created at the animal shelter. A folder and binder system works well. Ideally, laptops and forms uploaded and populated hourly/daily are highly suggested. All animal records and associated documentation

should go into a folder and should be in the same order in each folder. If an animal is onsite, the folder should have a green dot. If the animal has been transported elsewhere, a red dot should be used. If the animal has been moved into a foster home or contingent-adoptive home, a yellow dot should be used. Color coding the folders will facilitate tracking the folders and animals.

Binders/Date input may be used to store and access other information, such as:

- Lost animal information
- Owned animals
- Reclaimed animals
- Stray animals

Utilization of Animal Rescue Volunteers

Animals in disaster usually bring forth an outpouring of volunteers who want to help. Dealing with animals, particularly in stressful or chaotic situations such as disasters, requires special skills. Volunteers who handle animals need to have experience or training in this area. Several national, state, and local groups offer training programs. Local shelters and animal control agencies are also encouraged to train their own volunteers to assist with the care and sheltering of volunteers in a disaster.

DEMOBILIZATION

When the EOC determines that a temporary animal shelter should be deactivated, several key activities are required:

- Plan for closing the shelter should begin almost as soon as the shelter is set up.
- Recognize that the need for the emergency shelter will wane as the community begins to move from the response to the recovery phase. It is best to begin to think about the "arc" of the operations and consider how and when to demobilize as part of the initial planning. Help the community understand that this shelter is a temporary resource.
- The actual demobilization date may change from the original plan. However, it is important to have thought through, and begun to prepare for, the closing of the shelter and the myriad concerns that go with that operation.

Shelter Closures

Closing a temporary animal shelter is usually coordinated with the closure of human shelters. The following activities must be coordinated:

- Communication and coordinated efforts allow animals to be reunified with their owners or to be matched with foster groups
- Simultaneous closure of multiple shelters
- Reunify all animals with owners or foster homes
- Break down cages and kennels
- Remove paper and tarps from walls and floors
- Sweep and mop floors
- Clean and properly sanitize all surfaces
- Remove signage
- Create a punch list of any items that may need to be repaired and or replaced
- Final walk through of facility with owner to assure clean-up is acceptable

Redistribution of Supplies

Remaining supplies should be inventoried, returned to the owner, or disposed of properly or donated. This activity is important for reimbursement.

Removal and Disposal of Animal Carcasses

Although all efforts should be made to use a freezer or refrigerated truck to store dead animals, it may not be possible. If a freezer or refrigerated truck is not available, the animals must be securely tied in several thicknesses of plastic bags and kept at a distance to not pose a health risk. Fly spray should be used often. The animals should be moved to a freezer at the shelter when possible or picked up by an animal disposal company.

Procedures for Unclaimed Animals

Every shelter will need procedures for unclaimed animals. An animal may be adopted, transferred, or euthanized, but the procedures must be consistent with local laws. The procedures must be communicated to local rescue groups and the public. Holding periods of 30-60-90 days are determined by the lead agency. Circumstances such as disaster impacts, facility access, animal care staffing and the humane welfare of the animals must be taken into consideration. Upon conclusion of the established holding period, animals are available for transfer to other animal shelters or recognized rescue groups for

adoption and or fostering. Euthanasia options may be considered for the best interest of the animal.

Final Data Collection

Any remaining data, reports, or documents should be collected to ensure that a complete record of logs, transactions, analyses, and other information is in one place. Information management for the following:

- Animal movement tracking
- Records retention
- Health certificates for interstate movement of animals
- Detailed written records for eligible expenses
- Public information
- Volunteer registration forms/waivers/time keeping

ANNEX MAINTENANCE

The process for maintaining the Annex is described in this section. The discussion identifies who receives and reviews the Annex, how updates are to be integrated into the Annex, how the Annex is tested, what type of training and exercises are developed to enhance understanding and execution of the Annex, and how after-action review is conducted after the Annex has been implemented, whether as part of an exercise or in response to a real emergency.

Annex Distribution

Once completed and approved, the Animals in Disaster Annex for Sacramento County is distributed throughout the OA. Printed and electronic copies are also delivered to the EOC in Sacramento County and to other agencies and departments in Sacramento County. Electronic versions of the Final Annex are also distributed to each of the regional and/or local offices with major roles to play in animal care and sheltering.

Annex Updates

Sacramento County is responsible for the maintenance, revision, and distribution of the Sacramento County Animal Sheltering Annex. Sacramento County OES annually assesses the need for revisions to the Annex based on the following considerations:

- Changes to local, State, or Federal regulations, requirements, or organization;
- The need for additional subsidiary plans to develop regional

response capabilities or eliminate gaps in capabilities, as suggested by Mutual Aid Regional Advisory Committee members; and

- Implementation of tools or procedures that alter or improve on annex components.

Sacramento County maintains the record of amendments and revisions (the Record of Changes table in the front of this document), as well as executable versions of all documents, and is responsible for distributing the Annex to all applicable agencies.

Annex Testing, Training, and Exercises

Exercising the Annex and evaluating its effectiveness involves using training, exercises, and evaluation of actual disasters to determine whether goals, objectives, decision, actions, and timing outlined in the Annex led to a successful response.

Exercises are the best method of evaluating the effectiveness of an annex and are also a valuable tool in training emergency responders and government officials to become familiar with the procedures, facilities, and systems that they use or manage in emergency situations. Exercises are conducted on a regular basis to maintain readiness.

AUTHORITIES AND REFERENCES

Sacramento County Emergency Operations Plan 2022

Pets Evacuation and Transportation Standards (PETS) Act (PL 109-308)

AB 450, Sec. 8608 of the Government Code California Animal Response Emergency System (CARES)

Americans with Disabilities Act, 1990

California Emergency Services Act; California Government Code § 8550 et seq.

Standardized Emergency Management System; California Code of Regulations, Title 19, Division 2, Chapter 1

State of California Emergency Plan, October 2017

Standardized Emergency Management System Guidelines, November 2009

National Incident Management System, FEMA, December 2008

National Response Framework, Second Edition, Federal Emergency Management Agency, October 2019

ATTACHMENTS

Attachment 1: Animal Intake Form

Attachment 2: Animal Feeding Guidelines

Attachment 3: Animal Care Log

Attachment 4: Behavior Log

Attachment 5: Medicine Log

Attachment 6: Emergency Release

Attachment 7: Animal Release Foster Care

Attachment 8: Euthanasia Form

Attachment 9: Capabilities Matrix

Sacramento County Animal Care Services
Emergency Shelter
Animal Intake Form

Date: Time: Entered by:

ID#:	Location:	Crate#:	Microchip#:

Primary Owner Information

Last Name:	First Name:

Home Address:

Temporary Address:

Cellular Phone:	Landline Phone:

Email address:

Has Animal bitten in last 10 Days?		Has animal displayed aggression toward people or animals?	
❑ Yes	❑ No	❑ Yes	❑ No

Explanation:

List any other individual with authority to make all decisions regarding care (including veterinary care):

Name:	Phone:

Owner Surrender Request

Surrender for adoption	Surrender for euthanasia	Temporary Housing
❑ Yes ❑ No	❑ Yes ❑ No	❑ Yes ❑ No

Animal Found by:

Animal Control Officer	Shelter Staff/Volunteer	Private Citizen
❑ Yes ❑ No	❑ Yes ❑ No	❑ Yes ❑ No

Method of Intake

❑ In-field	❑ Brought to shelter	❑ Other

Location Found:

_____

Address

_____

City State Zip

Finders Name and Contact Information

Sacramento County Animal Care Services
Emergency Shelter
Animal Intake Form

_____

Address

_____

City State Zip

Animal Information	
Animal Name:	Species:
Breed:	Color:
❑ Male	❑ Female
❑ Neutered	❑ Spayed
❑ Unknown	❑ Markings/other:

TAKE TWO IDENTIFICATION PICTURES (FACE & PROFILE)

Unless owner refuses, cats and dogs without a microchip must be implanted with one during intake and documented.

Identification Information		
Tags: ❑ Yes ❑ No		Tag Info:
Microchip: ❑ Yes ❑ No	Chip #:	Company:
Tattoo:		Tattoo #:
Other identifier:		

Vaccination Expiration Dates			
Rabies date:		Distemper/Parvo (canine):	
FeLV/FVRCP (feline):		Other:	
Bordetella date:		❑ Horse ❑ Chicken ❑ Other	
Dewormer date:		External Parasite Control date:	

Special Needs/Allergies:

Known Medical Conditions:

Medication #1: _____ Dosage:_____ Date:_____

Medication #2: _____ Dosage:_____ Date:_____

Medication #3: _____ Dosage:_____ Date:_____

Sacramento County Animal Care Services
Emergency Shelter
Animal Feeding Guidelines

Animal Feed Calculation Protocols
Standard Operating Procedures for an Emergency

Cat Feeding Protocol

Assume 4kg average weight and 90Kcal/kg energy requirement (according to NRC) = 360 Kcal per day. Since cat food averages about 400 Kcal/8oz of dry food, you can use that figure. 5.5 oz cans of wet food average about 200 cal and if you feed 1/4 can per day per cat, that would be 50 Kcal and reduce dry food to 7oz per day.

Dry Cat Food Requirement

# of cats x 8 oz = ____ ounces per day / 16 = ____ pounds per day of dry cat food if ONLY feeding dry food.
# of cats x 7 oz = ____ ounces per day / 16 = ____ pounds per day of dry cat food and canned cat food.
*Most dry cat food comes in 20 lb bags

Wet Cat Food Requirement

# of cats x 0.25 = ____ 5.5 oz cans of cat food per day.
*Most canned cat food comes in 24 can boxes at 5.5 oz per can

Dog Feeding Protocol

Assume 20 kg average and 50Kcal per Kg = 1000 Kcal per day Dry dog food averages about 350 Kcal per cup, so that's just under 3 cups (20 oz) or 1.25 lb. Canned dog food averages 13.2 oz per can with 29 cal/oz and if you feed ½ can per day, that would be 200 kcal which would lower your requirement to 2 cups of dry food per day or 0.75 lbs.

Dry Dog Food Requirement

# of dogs x 1.25 = ___ pounds of dry dog food daily if feeding ONLY dry food
# of dogs x 0.75 = ___ pounds of dog food daily if feeding dry food mixed with canned food.
*Most dry dog food comes in 40 lb bags

Wet Dog Food Requirement

# of dogs x 0.5 = ____ 13.2 oz cans of dog food per day
*Most canned dog food comes in 13.2 oz cans in boxes of 12 cans

Horses Feeding Protocol

NRC guidelines indicate that a horse averaging 1,100 lbs of body weight requires 16.4 MCal per day to maintain body weight at rest. As a general rule, one can assume that alfalfa has 1.2 MCal per pound, oat hay 0.9 MCal per pound, and grass hay 0.9 MCal per pound. General recommendations also indicate that a horse should consume in hay 1 to 1.5% of its body weight per day (11 to 16.5 pounds). That equates to around 6 to 9 pounds of hay per feeding if feeding twice daily.

- ❑ Alfalfa Hay (1.2 MCAL/ lb): 14 pounds required per day to meet DE requirements (7 pounds twice daily is roughly equivalent to 1 flake twice daily.)
- ❑ Oat Hay (0.9 MCAL/ lb): 18 pounds required per day to meet DE requirements (9 pounds twice daily is roughly equivalent to approximately 1.5 flakes twice daily.)
- ❑ Grass Hay (0.9 MCAL/ lb): 18 pounds required per day to meet DE requirements (9 pounds twice daily is roughly equivalent to approximately 2 flakes twice per day)

Assumptions:
*Only hay will be fed to horses being sheltered during disasters
*Shelters will feed a minimum of 2 times per day
*There are approximately 12 to 14 flakes in a bale (a small 3 string bale weighs approximately 110-135 pounds
*Approximately 16 small bales (3 string) = 1 ton

Cattle Feeding Protocol

Body Weight	Dry Matter Intake, (lb) of hay
1100	25.1
1200	26.5
1300	30.7
1400	32.4
1500	34.1
1600	35.8
1700	37.5
1800	39.1
1900	40.8
2000	42.2

Water Guidelines All Animals

Ideally, animals should be allowed free choice access to water to account for variations in weight, metabolism, reproductive/ lactation status, disease and environmental conditions such as ambient temperature. For purposes of emergency planning, the numbers below provide a minimum requirement for planning purposes:

- ❑ Small animals (dogs, cats) – 2 liters/day/pet
- ❑ Birds and other small pets – 1 liter/day/pet
- ❑ Large breed dogs (>50 pounds) will require 4 liters/day
- ❑ Lactating animals will require 4 liters/ day
- ❑ Horses (mini's, ponies and large horses) 5 to 36 gallons day/animal
- ❑ Cattle 4 to 48 gallons day/animal

Sacramento County Animal Care Services

Emergency Shelter

Animal Care Log Form

ID#:	Location:	Crate#:	Microchip#:
Animal Name:		Species:	
Description:			
Owner Name:		Phone:	

Animal is currently on medication: ☐ NO ☐ YES (If YES, see Medication Log Form for medications and dosage)

Date	Walked	Fed	(U)rinated (D)eficated	Cage Cleaned	Comments	Initials

Sacramento County Animal Care Services
Emergency Shelter
Animal Care Log Form

NOTES:

Sacramento County Animal Care Services
Emergency Shelter
Behavior Log Form

ID#:	Location:	Crate#:	Microchip#:
Animal Name:		Species:	
Description:			
Owner Name:		Phone:	

Date / Time:	Behavior:	Initials:

Sacramento County Animal Care Services
Emergency Shelter
Medication Log Form

ID#:	Location:	Crate#:	Microchip#:
Animal Name:		Species:	
Description:			
Owner Name:		Phone:	

Date	Medication / Dosage	AM Staff	Mid-day Staff	PM Staff

Sacramento County Animal Care Services
Emergency Shelter
Emergency Animal Release Form

ID#:	Location:	Crate#:	Microchip#:
Animal Name:	Species:	Color:	

- ❑ I/the animal owners hereby request the emergency quartering of the animal being evacuated because of a pending or occurring disaster.
- ❑ I/the animal owners hereby release the person or entity who is receiving the animal (hereinafter "animal caregivers") from any and all liability regarding the care and quartering of the animal during and following this emergency.
- ❑ I/the animal owners acknowledge that if emergency conditions pose a threat to the safety of the animal, additional relocation may be necessary, and this release is intended to extend to such relocation.
- ❑ I/the animal owners acknowledge that the risk of injury or death to the animal during an emergency cannot be eliminated and agree to be responsible for any veterinary expenses which may be incurred in the treatment of their animal.

❑ _____ **(initial) Microchip**
I, the undersigned, understand that a microchip may be administered to my animal(s) (if not already present) to help identify my animal(s) and my ownership of my animal(s). Insertion of a microchip will assist in the reunification process following a disaster event. I understand complications associated with microchip placement are exceedingly rare but can include infection, spinal trauma, or other complications.

❑ _____ **(initial) Veterinary Care**
I, the undersigned, understand that my animal may be exposed to diseases and other risks while being sheltered and that my animal(s) may be evaluated for needed veterinary care. If determined necessary, I am giving consent and understand that veterinary care may be provided to my animal(s) at the discretion of _____, and if veterinary staff are available, to prevent spread of parasites, prevent spread of disease (including the administration of vaccines), to relieve pain and suffering, to provide life-saving care, and/or for other conditions and situations as determined appropriate.

If the animal becomes ill, the animal caregiver will provide emergency triage veterinary care regarding the animal's symptoms, treatment options, and estimate of costs. In the event the emergency proves serious enough to require transport to a veterinary hospital, please indicate your wishes should the animal require further treatment:

- ❑ Please perform whatever services the doctor deems necessary for the best care of the animal until I can be reached. This includes only non-elective treatments and necessary diagnostic tests.
- ❑ I authorize up to $_____ **or** ____ I am unable to provide monetary support.
- ❑ Please do not administer any medical treatment until specific authorization is given unless the shelter is unable to reach me in a timely fashion. In such a case, I do authorize the shelter to treat or manage my animals as judged appropriate by medical staff as dictated by medical necessity.

Sacramento County Animal Care Services
Emergency Shelter
Emergency Animal Release Form

If an animal is not claimed within thirty (30) days (unless prior arrangements have been made), the animal owner will be notified of possible adoption or relocation.

ID#:	Location:	Crate#:	Microchip#:
Animal Name:	Species:	Color:	
Owner Name:			
Address:			
Phone:			
Signature:			

The animal owner is responsible for keeping the animal caregivers informed of where the animal owner can be contacted during the emergency.

Sacramento County Animal Care Services
Emergency Shelter
Animal Release – Foster Care Form

The animal described below has been released from care at the Field Shelter and will be transferred and cared for by the foster caretaker named below. Unless owner refuses, cats and dogs without a microchip must be implanted with one during intake and documented.

ID#:	Location:	Crate#:	Microchip#:
Animal Name:		Species:	Breed:
❑ Male ❑ Neutered ❑ Unknown		❑ Female ❑ Spayed ❑ Unknown	Color:
Animal Description			
Req'd Medical Treatment			
Owner Name:			
Address:			
Phone:			
Foster Name:			
Address:			
Phone:			

THE UNDERSIGNED FOSTER CARETAKER HEREBY ACKNOWLEDGES RECEIPT OF THE ABOVE DESCRIBED ANIMAL AND AGREES TO PROVIDE HUMANE CARE, ADEQUATE SHELTER, AND FOOD TO THIS ANIMAL WHILE IN HIS/HER FOSTER CARE AND AGREES TO HOLD HARMLESS ALL PERSONS, ORGANIZATIONS, OR GOVERNMENT AGENCIES INVOLVED IN THE RESCUE, CARE, AND SHELTERING OF THIS ANIMAL. THE ANIMAL'S OWNER AGREES TO BE RESPONSIBLE FOR ANY VETERINARIAN, FOOD, OR CARE EXPENSES INCURRED DURING THE FOSTER CARE PERIOD.

Foster Signature:	Date:
Owner Signature:	Date:
Witness Signature:	Date:
Witness Name (print):	Date:

Sacramento County Animal Care Services

Emergency Shelter

Animal Release – Foster Care Form

Sacramento County Animal Care Services
Emergency Shelter
Euthanasia Form

ID#:	Location:	Crate#:	Microchip#:
Animal Name:		Species:	
Description:			
Owner Name:		Phone:	

Animal Health Summary

Attending Veterinarian:	Phone:
Reason for Euthanasia Decision:	

Owner Contact Attempts

Number Called:	Date/Time:	Msg Left: ☐ Yes ☐ No
Number Called:	Date/Time:	Msg Left: ☐ Yes ☐ No
Number Called:	Date/Time:	Msg Left: ☐ Yes ☐ No

In cases where the owner is unknown or is unavailable due to emergency circumstances:
We the undersigned do hereby agree that euthanasia for the above-described animal was necessary under these emergency circumstances either to relieve pain or suffering or for the emergency preservation of public health and safety.

Print Name:	Date:
Print Name:	Date:

In cases where the owner is present or has provided authorization by phone:
I, the undersigned, do hereby certify that I am the owner (or duly authorized agent for the owner) of the animal described above, and I do hereby give permission to end the life of said animal in a manner consistent with current standards of veterinary care. I do hereby release _____, its staff and volunteers and the attending veterinarian from any and all liability for euthanizing said animal. I also do certify that to the best of my knowledge the said animal has not bitten any person or animal during the last fifteen (15) days and has not been exposed to rabies.

- ☐ I hereby authorize disposal of the animal's remains as deemed appropriate by jurisdictional authorities
- ☐ I will be responsible for the disposal of my animal's remains and will pick them up by _____ (date).

Print Name:	Date:
Witnessed By: (Print Name)	Date:

Administrative	Transportation / Evacuation						Equipment/ Services						
AGENCY	# LIVESTOCK TRAILER	# TOW VEHICLES	# LARGE ANIMALS EVACUATE // TRIP	MILES WILLING TO TRAVEL FOR LRGANIMAL EVAC	# SMALL ANIMALS EVACUATE // TRIP	MILES WILLING TO TRAVEL FOR SMALL EVAC	MICROCHIP SCANER	ADMINISTER VACCINES / MEDS	# WATER / FEED TROUGH	# SMALL / MED KENNELS	# LARGE KENNELS	VETERINARIAN	ADDITIONAL

Administrative												Personnel							
COUNTY	AGENCY	ADDRESS	POINT OF CONTACT	OFFICE NO	MOBILE NO	OTHER PHONE NO/TYPE	AFTER HOURS NO	EMAIL	WEBSITE	HOURS OF COVERAGE	SERVICE AREA	ANNUAL TARGET CLIENTS	# OF VOLUNTEERS	# PERSONNEL & VOLUNTEERS	# REGISTERED NURSES	# DAYS OF SERVICE / YEAR	SELF-ASSESSMENT DATE DUE	ACCREDITATION DATE DUE	LINK FOR WEB-BASED INFORMATION FROM AGENCY

Standardized Emergency Management System (SEMS) Guidelines

Part I. System Description

Section E

Regional Level

The contents of this guideline have not been changed from the original document, however, the guideline has been reformatted to meet Americans with Disabilities Act (ADA) 508 standards.

Regional Level in SEMS

Regions is one of the five levels of the SEMS organization. A region is a geographical area made up of two or more counties. SEMS guidance for the regional level is primarily but not exclusively directed at regional facilities and systems that administer or coordinate mutual aid. These would include OES regional emergency operations centers (REOCs) and discipline-specific mutual aid systems, for example, fire, law, medical, which coordinate mutual aid within mutual aid regions.

Other state agency administrative and operational sub-levels also have a "regional" structure; for example, CHP Divisions, Cal Trans Districts, CDF & FP and Fish and Game Regions. The SEMS Regulations require that all State agencies must use SEMS. While the guidance is directed primarily at those agencies administrating established mutual aid systems, the organization, concepts and principles described in the Guidelines also apply to the "regional" level of other state agencies, which are involved in response to emergencies, and are required to use SEMS.

A. Mutual Aid, Mutual Aid Regions and Mutual Aid Systems

Because of the importance of mutual aid, a brief description is provided of the relationships between California mutual aid and is described in Guidelines Section I.A. The SEMS Field Level Training Course describes the overall California mutual aid program, and each of the various mutual aid systems in more detail.

Mutual Aid

The delivery of all mutual aid in California is based on the Master Mutual Aid Agreement. This agreement signed in 1950 by the state and all counties and most cities, provides the basis for rendering mutual aid without the necessity of specially written agreements for mutual aid.

Essentially, this agreement states that each part agrees to furnish resources and facilities and to render services to each and every other party to prevent and combat

any type of disaster. However, no party is required to unreasonably deplete its own resources, facilities, and services in the process of furnishing mutual aid.

The use of mutual aid by a local government is determined by the jurisdiction in need. Local governments requiring assistance will request mutual aid from neighboring jurisdictions or through their respective operational area. (A variety of local written and in some cases informal mutual aid agreements exist between jurisdictions.) The operational area (which consists of the county and all political jurisdictions within the county) will coordinate the additional aid requirement first from jurisdictions within the operational area (including county owned resources). (See operational area discussion in Guidelines I.D.)

If sufficient resources are still not available, the request will be made to the regional level. The mutual aid system regional coordinator (which will differ in name and location by mutual aid system) will attempt to fill the resource order from mutual aid suppliers within the region. If sufficient resources are still not available, the request will be forwarded to the state level, which will fill the resource request from other mutual aid regions within the state, from interstate sources and/or from private and federal sources.

The regional level coordinates mutual aid information and resources among the operational area within the region and between the operational areas and the state level. The regional level and the state level coordinate overall state agency support for emergency response activities.

This general process for requesting and supplying mutual aid is shown in Exhibit E-1.

Mutual Aid Regions

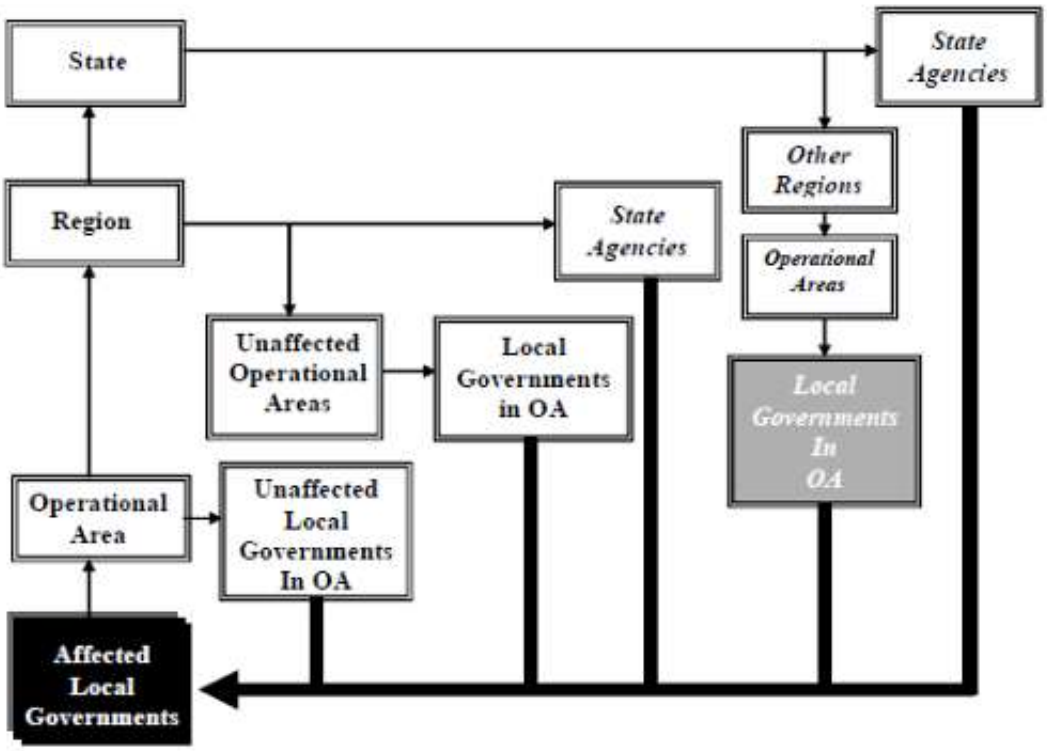
Mutual aid regions are established under the Emergency Services Act by the Governor, who with the advise of the State's Emergency Council is authorized to divide the state into mutual aid regions for the more effective application, administration, and coordination of mutual aid and other emergency related activities. Six mutual aid regions numbered I - VI have been established within California for purposes of

coordinating mutual aid between operational areas in the region. Region I is divided into two Regions, Region I and Region IA for Law Enforcement Mutual Aid.

Each mutual aid region consists of designated counties. State OES has also established three Administrative Regions, which will be discussed below. Mutual Aid and OES Administrative Regions are shown in Exhibit E-2.

Exhibit E-1

Mutual Aid System Concept:
General Flow of Requests and Resources



Resource Requests

OA - Operational Area

Notes: Local governments may request mutual aid directly from other local governments where local agreements exist.

Discipline-specific mutual aid systems may have procedures that provides additional methods of obtaining state resources.

Volunteer and private agencies may be involved at each level.

Exhibit E-2



Mutual Aid Systems

Several discipline specific mutual aid systems function within the California mutual aid regional framework. With the exception of disaster medical/health, all mutual aid systems are coordinated at the state level by the Governor's Office of Emergency

Services (OES). OES coordinates all mutual aid through three independent networks or channels: Emergency Services, Fire and Rescue, and Law Enforcement.

Established mutual aid systems and their state level coordination authority are shown below.

Exhibit E-3

California Mutual Aid Program
Mutual Aid Systems and Channels of Statewide Mutual Aid Coordination

COORDINATED BY STATE OES			COORDINATED BY EMSA
Fire & Rescue	**Law Enforcement**	**Emergency Services**	
Fire Mutual Aid System	Coroners Mutual Aid System	All other emergency services mutual aid not included in other systems.	Disaster Medical/Health Mutual Aid System
Urban Search and Rescue System	Law Enforcement Mutual Aid System	Volunteer Engineers Mutual Aid System [1]	
	Search and Rescue Mutual Aid System (non urban)	Emergency Managers Mutual Aid System	
		Water Agency Response Network (WARN)	

[1]Mutual Aid concepts are used by other agencies and disciplines

It is important to remember that the implementation and use of SEMS does not alter the makeup or the functioning of existing mutual aid systems. The mutual aid systems work within the SEMS levels of local government, operational area, regional and state levels in the same manner that they worked prior to SEMS.

Several other mutual aid systems are being developed. Although some are in limited operations, statewide procedures for their operation are not yet in effect. When fully operational, they will be coordinated by State OES through the emergency services coordination network or through specific disciplines.

Each of the statewide mutual aid systems may supply its own facilities, communications systems, operating procedures and personnel structure. In some cases, the personnel who operate the mutual aid systems at the regional level are elected and may be representatives of other state agencies, non-state agencies and/or the private sector.

B. OES Administrative Regions

The OES Administrative Region serves as general coordinator and exchanges information with mutual aid regions and mutual aid systems that operate within the boundaries of the Administrative Region. OES has established three Administrative Regions: Coastal, Inland, and Southern. As shown in Exhibit E-2, OES Administrative Regions will have common boundaries with one or more mutual aid regions.

OES Administrative Regions are used by State OES to maintain day-to-day contact with emergency services organizations at local, county, and private sector levels. An OES Regional Administrator and support staff will function at an Administrative Region headquarters.

The OES Administrative Region is responsible for providing:

- General planning and preparedness assistance to jurisdictions within the mutual aid region(s).
- Respond to resource requests from operational areas including the tasking of State agencies and tracking of State resources.
- Emergency services mutual aid coordination for public works.
- Emergency Managers Mutual Aid
- Coordination for other resources and support not included in other discipline-specific mutual aid systems.

The Region also assists in the coordination and monitoring of regional disaster recovery operations.

During and emergency, the regional coordination function for a discipline-specific mutual aid system may function at a facility operated by the affected discipline for example, fire, law, or disaster medical/health. Coordination of other mutual aid will be done from within the OES Administrative Region Emergency Operations Center (REOC).

During emergencies, OES may establish additional regional coordination facilities within mutual aid regions. These facilities would be located near the scent of disasters or major incidents, and would be connected to an Administrative Region REOC.

1. SEMS Regional Guidelines

Agencies, which provide regional coordination of mutual aid and operate the various mutual aid systems within the state are required to use SEMS at the regional level.

When the OES Regional EOC (REOC) is activated, communications and coordination shall be established with:

- Operational areas within the region
- State level EOC
- Regional facilities responsible for discipline-specific mutual aid systems
- OES coordinating and support facilities established near disaster scenes
- Department operation centers (DOCs) of state agencies located within the boundaries of the OES Administrative Region

The latter could include DOCs which function as regional mutual aid system coordinators, (e.g., CDF) as well as state agency "regional" operations centers for CalTrans Districts, CHP Divisions, etc.

Boundaries of state agency districts, divisions, and regions may not correspond to those of the State's mutual aid regions.

2. Responsibilities and Roles of OES Regional EOCs

Responsibilities

Regional emergency operations centers (REOCs) when activated are responsible for:

- Ensure that an overall coordinating and information management system is in place for providing state support to local governments during an emergency. During emergencies, this is done by working through operational areas.
- Provide an organizational structure and the necessary communications to coordinate, and to provide information transfer between regional affected operational areas within the region.
- Provide the communications and coordination link between operational areas and the state level of SEMS.
- Ensure and encourage consistency of operations between state agencies and local governments through the utilizations of SEMS.

Operational Role

The Region EOC (REOC) performs and/or supports a variety of activities at the time of the emergency. REOC activities can be direct with operational areas, or be supportive by ensuring effective coordination through existing mutual aid systems. The operational role of the Regional EOC is to:

- Act as the State's primary point of contact for operational areas within the region
- Coordinate the regional response to disasters including collection, verification and evaluation of situation information and, for all resources dispatched through the Emergency Services Mutual Aid System, the allocation of available resources
- Coordinate mutual aid requests for emergency services between operational areas within the region. (This includes the direct coordination of all mutual aid

requests other than that provided through established discipline-specific systems such as the Disaster Medical/Health, Law Enforcement, and Fire and Rescue Mutual Aid Systems).

- Maintain liaison and coordination with OES Headquarters, and with state and federal agencies within the region as required.
- Provide assistance operational areas through appropriate systems to support the protection and saving of life and property during emergencies.
- Assist operational areas in beginning recovery operations following disasters
- Assist and guide operational areas in all phases of emergency management
- Receive and disseminate emergency alerts and warnings

Purchasing Authority, Procurement Policy and Mission Numbers

Once an emergency has been declared, purchasing and mission number assignment authority will be delegated to the appropriate OES Administrative Region (REOC). OES headquarters will establish the conditions under which authority will be delegated. The Regional Administrator (REOC Director) may delegate purchasing authority to the REOC Finance/Administration Section, and delegate mission number assignments to the Logistics Section.

During life threatening or other time critical emergencies, resources will be procured from the closest available source(s). Unless otherwise defined by OES policy, in those situations where time is not of the essence, or life is not threatened, resources will be procured using the priority outlined below:

1. Resources within the State inventory, i.e. state owned

2. Other sources that may be obtained without direct cost to the State (may include donated goods and services)

3. Resources that may be leased or purchased within spending authorizations

Information Transfer

As the Regional EOC organization grows, effective internal Information transfer must take place.

Two principles are essential to effective handling.

1. There is freedom within the organization to exchange information. Any person in any unit or organization may make contact with any other person to exchange information.
2. Orders, directives, resource requests, and status changes must follow the REOC organization unless otherwise indicated in the REOC Action Plan.

4. Activating the Regional EOC (REOC)

The REOC will be activated under any of the following conditions:

- When any operational area EOC in the region is activated
- When ordered by the Regional Administrator (or designee) or a higher authority
- When a local or state emergency is declared, and contact with the OES Regional Administrator (or designee) is not immediately possible

The Region should anticipate the activation of the operational area(s) and activate the REOC as soon as practical. The Regional Administrator will maintain procedures for activating and staffing the REOC at levels appropriate to the situation. These procedures will be made available to the operational areas within the region. Representatives from the OES REOC will be sent as part of the activation process to activated operational area EOCs when possible.

Upon activation, the Regional Administrator will assume the position of REOC Director, and have responsibility for all state related functional activity within the REOC. During later phases of an emergency, REOC Director authority may be delegated.

The REOC Director and all other emergency management staff with the exception of the field liaison team(s) shall carry out their duties at the REOC location. (See REOC Plan and Standard Operating Procedures.)

Regions should establish levels of activation based on the kinds of events identified within a regional hazards assessment. Positions to be automatically activated for each level could then be delegated.

Three levels of activation are recommended.

Level One - Minimum

At a minimum, staffing would consist of Regional Administrator and regional Duty Officer. Other members of the General Staff may also be part of this level of activation as could be a Situation Status and Analysis Unit from the Planning Section and a Communications Unit from the Logistics Section. If possible, an OES Agency Representative should be sent to the operational area that has experienced the emergency. If the situation is a prediction of a possible event, OES representatives should be alerted as a part of the Level one activation.

Level Two - Midlevel Activation

Most of the REOC functional elements are activated but a reduced staffing level. A Level Two activation would often be achieved through either an increase from Level One or a decrease from Level Three.

Level Three - Full Activation

All functional elements are represented at full staffing. A level three activation may also include State and Federal proclamations/declarations with appropriate Federal Emergency Support Function (ESF) representation at the REOC.

5. Regional EOC (REOC) Organization

Organization Development

SEMS Regulation (2403 [c]) requires that the regional level provide for all of the following functions within a REOC.

- Management
- Operations
- Planning/Intelligence
- Logistics
- Finance/Administration

To meet this requirement, a regional level organizational structure has been established. The following are primary functional positions at the REOC. With the exception of the REOC Director, all positions will be activated as required.

- REOC Director (Regional Administrator)
- Public Information
- Liaison
- Operations Section
- Planning/Intelligence Section
- Logistics Section
- Finance/Administration

The public information function should be established at a section or branch level in the REOC to allow the capability for later activation of sub-elements within the function. It is recommended that Public Information and Liaison positions once activated, be added to the REOC General Staff.

Primary functional responsibility includes the following:

REOC Director (Management) - Implements policy of the OES Director and appropriate government code, and coordinates joint efforts of governmental agencies and public and private organizations functioning at the REOC.

- Operations Section - Coordinates the activities of various functional branches, which may be activated at the REOC to support operational areas.

- Planning/Intelligence Section - Collects, evaluates, and disseminates information; develops the REOC action plan in coordination with the other functions, and maintains documentation.

- Logistics Section - Procures and provides facilities, services, personnel, equipment, and materials to meet the needs of operational area requests and to support REOC operations.

- Finance/Administration Section - Administers regional level purchasing authority, cost accounting and other financial activities and administrative tasks not assigned to other functions.

- Public Information - Develops regional level State public information releases, and coordinates public information and public affairs activities with the State EPI manager at the SOC.

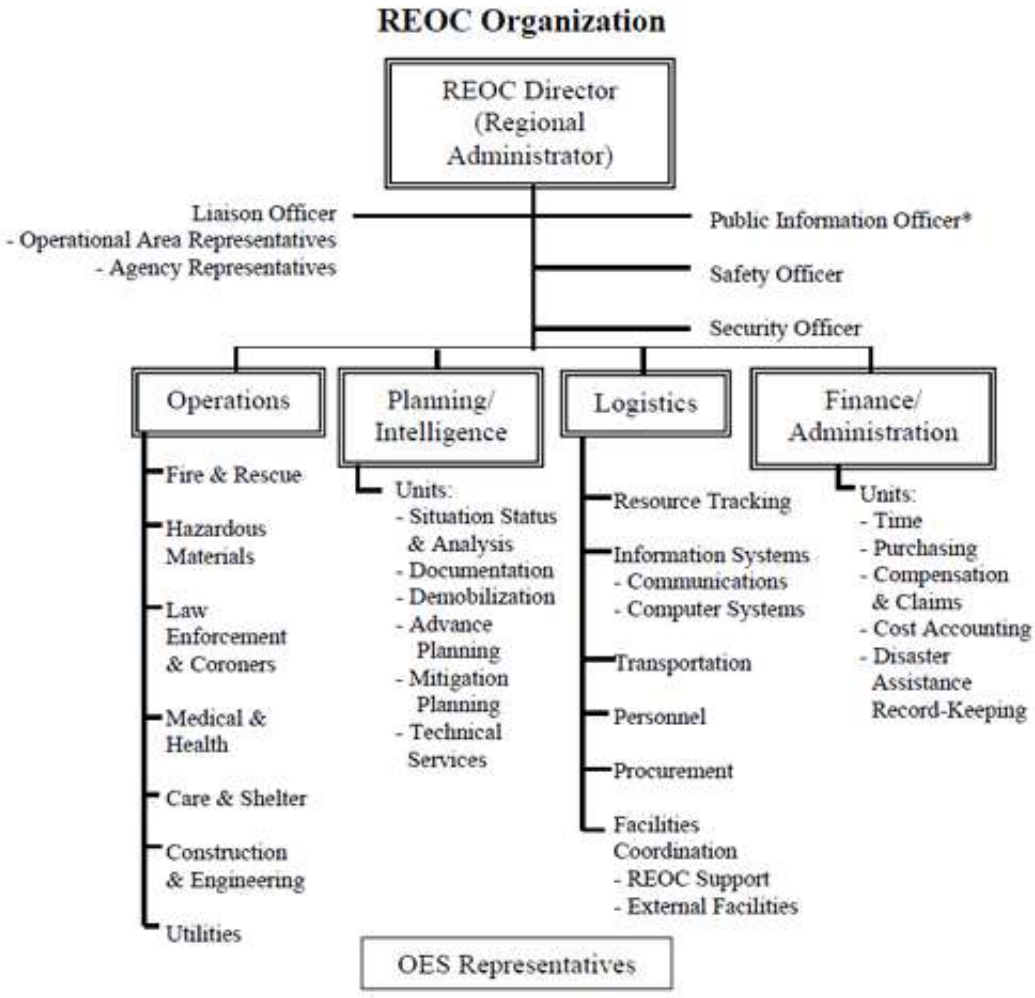
- Liaison - Provides coordination, and ensures adequate support is provided to incoming operational area and other agency representatives. Liaison will also assist the REOC Director in coordinating the assignment of regional field liaison teams sent to operational areas and/or other locations as necessary.

Section Coordinators constitute the REOC General Staff. The REOC Director and General Staff function as a REOC management team. If Liaison and Public Information functions are not established, the responsibility for those functions rests with the REOC Director.

All functions must be capable of being represented in the REOC. However, there is no requirement that all functional positions be activated. The only organizational position that would require activation at the regional level would be the REOC Director. The REOC Director is responsible for all primary and support functions until he/she delegates the authority to others.

A fully activated REOC organization is shown in Exhibit E-4.

Exhibit E-4



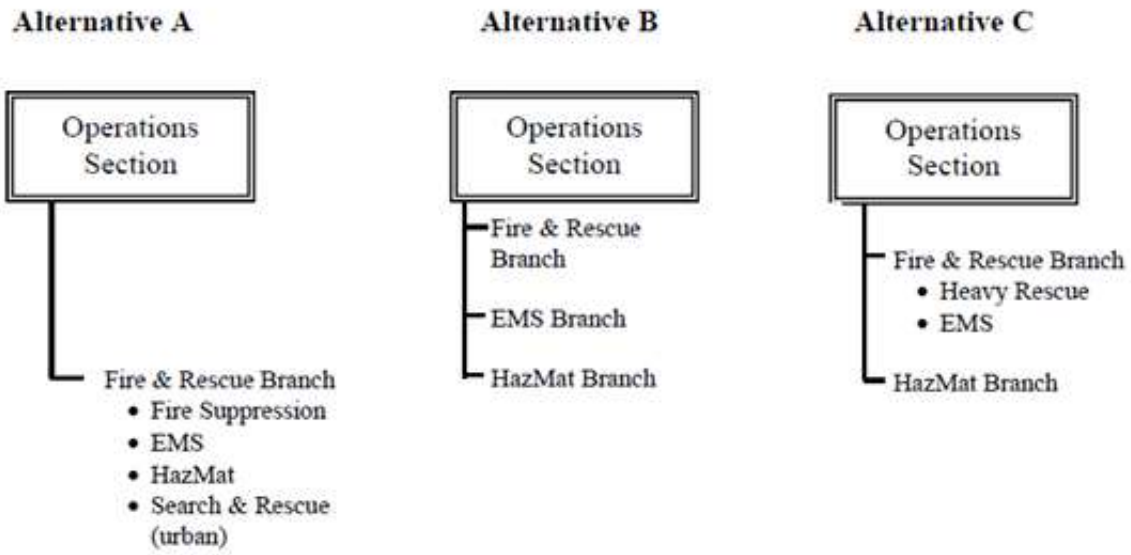
OES Representatives will be deployed to operational areas, when possible. They will report situation information to the REOC Planning Section and interact with other elements as needed to facilitate coordination and information exchange.

* Public Information functions may be organized through use of assistant information officers or as units if necessary.

Functions may be organized within the REOC organization in various ways as shown in Exhibit E-5.

Exhibit E-5

Example
Alternative Ways to Incorporate Functions
Into the REOC Organization



Organizational Span-of –Control

The Regional EOC organization will expand (or contract) as necessary to meet the operational requirement. The hierarchy of organizational elements that can be developed as needed within the EOC organization are:

- Director
- Section

- Branch
- Group
- Unit

Personnel supervising REOC Sections will carry the position title of Section Coordinator. The title of Coordinator will be used for other position levels unless otherwise designated.

The span-of-control within the Regional EOC organization should be maintained within the range of one supervisor for every three to seven positions. If the span-of-control exceeds seven, activation of another organizational level (e.g., Branch, Group or Unit) should be considered. Consideration should be given to deactivating or consolidating organizational elements if the span-of-control is less than three.

Not all positions in the organization need to be activated at the time of regional EOC activation. For example, a section does not have to be activated before activating a specific branch. Functional need and span-of-control are the primary considerations in organization development.

The next highest organizational level will perform the duties of functional positions not activated. One person may assume more than one functional assignment when necessary.

6. Regional EOC Staffing

The OES Regional Administrator will determine appropriate staffing at the REOC for each activation level based upon assessment of the situation. REOC positions should be staffed by available individuals most qualified to perform the necessary function. Primary staff positions may be filled by individuals from other State agencies. Sub positions within the organization will be filled by qualified personnel independent of rank or agency affiliation.

It is recommended that staffing for full activation of the REOC should use predesignated State Inter-Agency Response Teams. Teams will operate on a rotating "on-call" basis. Team composition will be established within Regional operating plans. Teams and other supporting personnel may consist of personnel from the following sources:

- Primary OES Region
- Other OES Regions
- OES Headquarters
- Other State Agencies
- Emergency Managers Mutual Aid Responders
- Emergency Hires

7. Coordination with the Operational Area

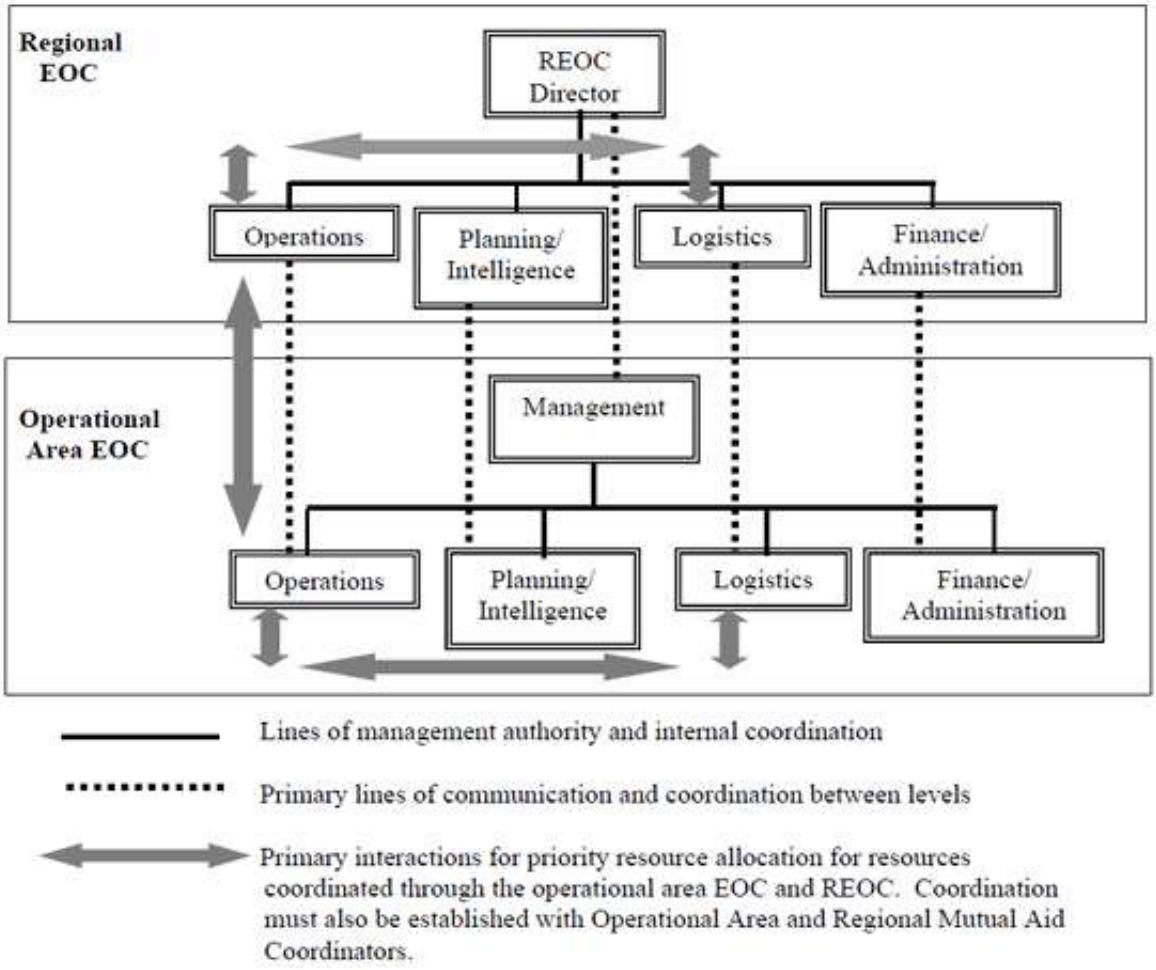
Regional coordination with operational areas can take several forms:

- The REOC sends OES Agency Representatives to the operational area(s)
- Coordination is done through telecommunications systems (telephone, radio, RIMS, OASIS Satellite).
- The operational area sends Agency liaison representatives to the REOC.

Coordination and communications between a REOC and an operational area EOC will be primarily along functional lines as illustrated in Exhibit E-6.

Exhibit E-6

Operational Area EOC - Regional EOC
Primary Interactions

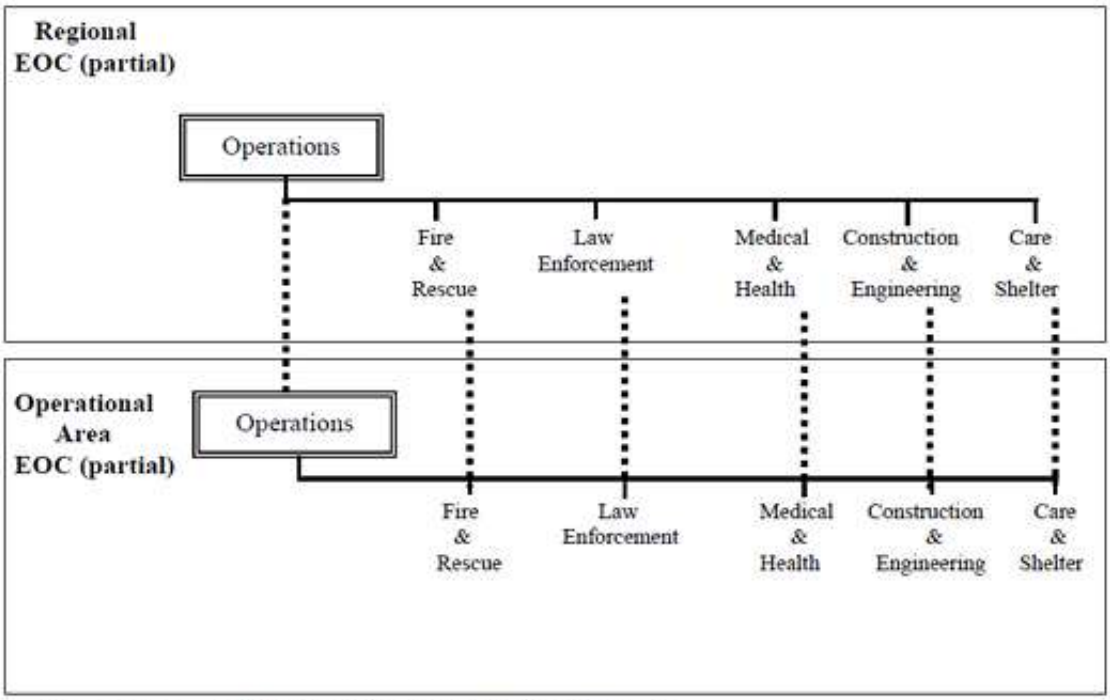


Agency Representatives will also facilitate communications and coordination as available and needed.

Coordination and communications will occur between the five SEMS functions at the operational area level and their counterparts at the regional level. Coordination of resource requests should be done in accordance with agency policy. This requires close communications and coordination between the operations and logistics functions at both the local government and operational area levels. This relationship is vital particularly when there are multiple requests for similar resources or when resources are scarce.

Exhibit E-7

Example
Operational Area EOC - Regional EOC
Functional Interactions within a SEMS Function



▪▪▪▪▪▪▪▪▪▪▪ Lines of communication and coordination

Notes: Agency Representatives also will facilitate communications and coordination as available and necessary.

This diagram focuses on interactions between EOCs. Interactions among functional elements within an EOC are also essential for coordination.

In addition, coordination and communications may occur between organizational elements under a SEMS function and counterpart elements at the other level as illustrated in Exhibit E-7.

The REOC OES Agency Representative assigned to the operational area assumes an information and coordination role to ensure effective communication is taking place between functional elements. Agency Representatives do not replace or perform roles assigned to functional elements.

8. Coordination and Communication with Established Mutual Aid System Regional Coordinators

Several of the established mutual aid systems function from within their own discipline-specific facilities and communications networks. Therefore, the coordination at the regional level can take place in three ways.

1. REOC and other regional mutual aid coordinators exchange information as required but are not located at the same REOC.

2. Mutual Aid Systems send liaison representatives to the REOC. This assures a closer working relationship.

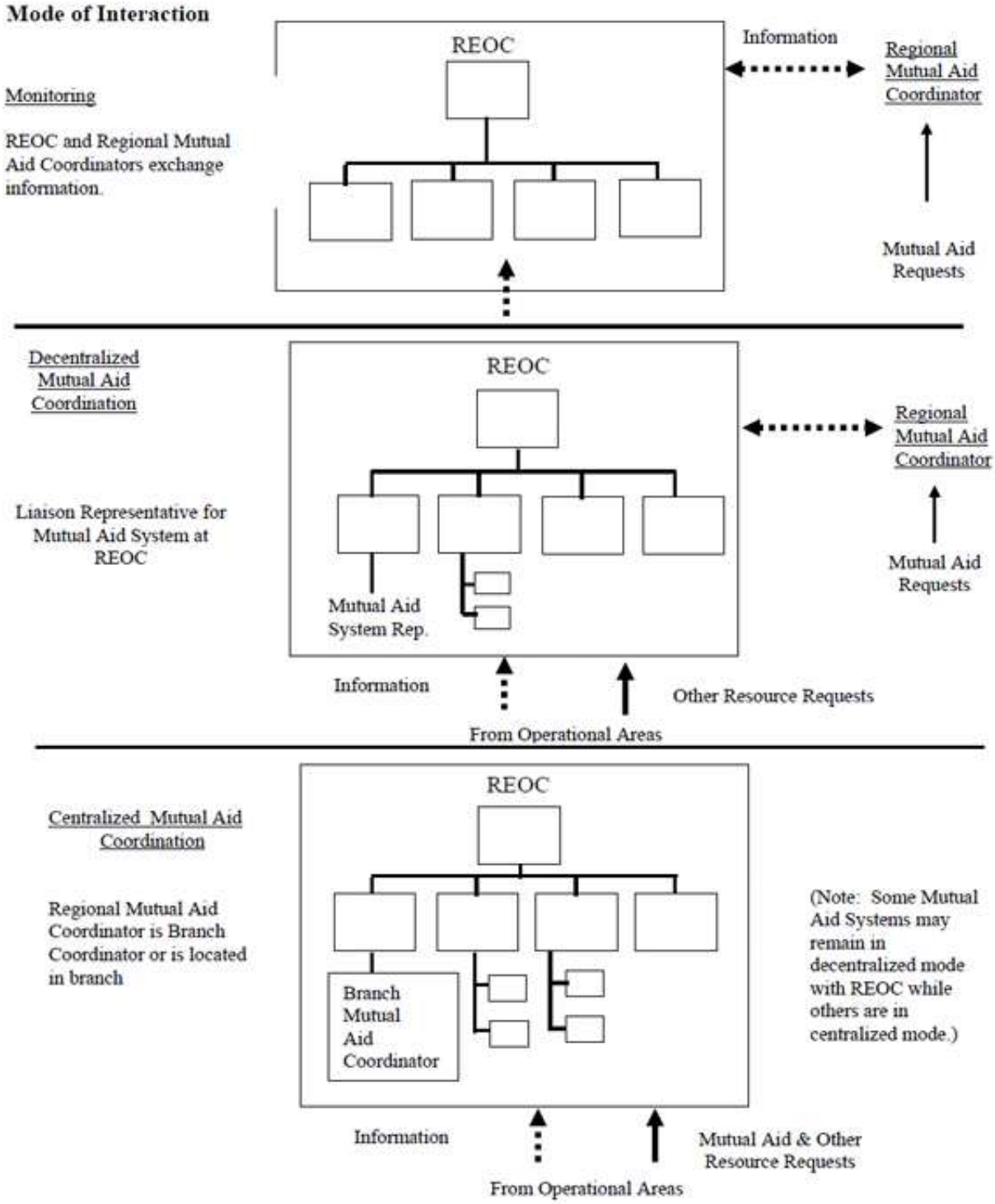
3. Mutual aid coordination is centralized at the REOC with functional branches established for some mutual aid coordination.

The modes of interaction between the REOC and mutual aid coordinators are shown in Exhibit E-8.

There is no directive mandating which node of operation will be carried out at the time of an emergency. Maintaining close coordination with established mutual aid systems is an essential requirement at the REOC. All discipline-specific mutual aid systems which are not functioning from within the REOC have a responsibility to ensure that the REOC is fully informed on all matters regarding mutual aid operations. The best mode of operation should be determined by an agreement between the REOC Director and the Regional Mutual Aid Coordinator(s). In major disasters, mutual aid systems should have representatives at the REOC to facilitate coordination and information flow.

Exhibit E-8

Concept of REOC and Discipline-Specific Mutual Aid System Relationships



Resource requests beyond the normal inventory of an agency, or outside the resources within the inventory of an established mutual aid system, will be routed to the REOC Logistics Section for processing and order placement. Following this procedure reduces the possibility of duplicate orders, consolidates orders at a central order point, and effectively manages costs of the procurement process. A Resource Tracking function within the Logistics Section will monitor the resource ordering and distribution process.

9. Coordination at the State Level

Response coordination with mutual aid regions and operational areas will be maintained at the State OES Regional Emergency Operations Center (REOC) level whenever possible.

The State Operations Center (SOC) will ensure that all state and regional elements of the State's Standardized Emergency Management System are activated as the emergency situation requires, and are maintained at the level necessary for the response. The SOC will function as the state's initial response entity until the appropriate REOCs can be activated and assume local management of their operational response functions.

The state level will have an overall coordination role with REOCs in the event of simultaneous multi-regional disasters such as earthquakes, fires or floods. In this situation, the SOC will provide inter-regional policy direction and coordination for emergencies involving more than one REOC activation. The SOC will monitor and facilitate inter-regional communications and coordination issues.

The REOC will prepare regional Situation Reports and forward these to the SOC. The SOC will compile, validate, and provide summary disaster status information obtained from all sources, in the form of Situations Reports, to the Governor's office, the legislature, state agency headquarters, media and others as appropriate.

10. Regional, State and Federal Interactions

The REOC is the primary point of contact within SEMS for operational areas to communicate information and to request resources from the State. The REOC must be immediately able to respond to operational area requests. In some instances, joint State-Federal interaction will be necessary. This interaction is best accomplished by the SOC and REOC working closely with Federal counterpart liaisons.

The following chart, Exhibit E-9, provides a cross reference which associates SEMS REOC functions with the corresponding Emergency Support Functions as defined in the Federal Response Plan.

The Federal Response Plan (FRP) establishes a process and structure for the systematic, coordinated, and effective delivery of Federal Assistance to address the consequences of any major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The FRP concepts apply to a major disaster or emergency, including natural catastrophes; fire, flood or explosion regardless of cause, or any other occasion or instance for which the President determines that Federal assistance is needed to supplement state and local efforts and capabilities. The complete text of the Federal Response Plan can be found on FEMA's website at www.fema.gov.

The FRP employs a functional approach that groups Federal capabilities under 15 types of Emergency Support Functions (ESFs); types of direct Federal Assistance that a state is most likely to need (e.g., mass care, health and medical services, etc.), as well as the kinds of Federal Operations support necessary to sustain Federal response actions (e.g., transportation, communications). ESFs are expected to support one another in carrying out their respective missions. Federal response assistance required under the FRP is provided using some or all of the ESFs as necessary. Federal ESFs are designated to supplement state and local activities.

Requests for assistance from local jurisdictions are channeled to the State Coordinating Officer (SCO) through the designated state agencies in accordance with the State's emergency operations plan and then to a Federal Coordinating Officer (FCO) for approval. ESFs coordinate with their counterpart state agencies or, if directed, with local agencies to provide the assistance required. Federal fire, rescue and emergency medical responders arriving on scene are integrated into the local ICS structure.

Exhibit E-9

REOC Elements (partial list)	Federal Emergency Support Functions
Operations	
Fire & Rescue	Firefighting (ESF 4) - **Primary Agency:** Dept. of Agriculture, Forest Service. **Supporting:** Depts. of Commerce, Defense, Interior, Environmental Protection, and FEMA. Urban Search and Rescue (ESF 9) - **Primary:** FEMA. **Supporting:** Depts. of Agriculture, Defense, Health & Human Services, Interior, Justice, Labor, State, Agency for International Development, National Aeronautics & Space Administration.
Hazardous Materials	Hazardous Materials (ESF 10) - **Primary:** Environmental Protection Agency. **Supporting:** U.S. Coast Guard, Depts. of Agriculture, Commerce, Defense, Energy, Health & Human Services, Interior, Justice, Labor, State, Transportation, Nuclear Regulatory Commission.
Health & Medical	Health & Medical Services (ESF 8) - **Primary:** Dept. of Health & Human Services. **Supporting:** Depts. of Agriculture, Defense, Energy, Justice, Transportation, Veterans Affairs, Agency for International Development, American Red Cross, Environmental Protection Agency, General Services Admin., National Communications System, U.S. Postal Service, FEMA.
Construction & Engineering	Public Works & Engineering (ESF 3) - **Primary:** Dept. of Defense, U.S. Army Corps of Engineers. **Supporting:** Depts. of Agriculture, Commerce, Health & Human Services, Interior, Labor, Veterans Affairs, Environmental Protection Agency, Tennessee Valley Authority.
Utilities	Energy (ESF 12) - **Primary:** Dept. of Energy. **Supporting:** Depts. of Agriculture, Defense, Interior, State, Transportation, National Communications System, Nuclear Regulatory Commission, Tennessee Valley Authority.
Planning/Intelligence	Information & Planning (ESF 5) - **Primary:**

	FEMA. **Supporting:** Depts. of Agriculture, Commerce, Defense, Education, Energy, Health & Human Services, Interior, Justice, Transportation, Treasury, Environmental Protection Agency, General Services Admin., National Aeronautics & Space Administration, National Communications System, Nuclear Regulatory Commission, Small Business Administration, Civil Air Patrol, Voluntary Organizations.
Logistics	
Information Systems Communications	Communications (ESF 2) - **Primary:** National Communications System. **Supporting:** Depts. of Agriculture, Commerce, Defense, Interior, Federal Communications Commission, General Services Administration, FEMA.
Transportation	Transportation (ESF 1) - **Primary:** Dept. of Transportation. **Supporting:** Depts. of Agriculture, Defense, State, Treasury, General Services Administration, Tennessee Valley Authority, U.S. Postal Service, FEMA.
Personnel Procurement	Resource Support (ESF 7) - **Primary:** General Services Administration. **Supporting:** Depts. of Agriculture, Commerce, Defense, Energy, Labor, Transportation, Treasury, Veterans Affairs, National Aeronautic & Space Administration, National Communications System, Office of Personnel Management, FEMA.

11. Multi-agency or Inter-agency Coordination at the Regional Level

Multi-agency or Inter-agency coordination as identified in the SEMS regulations has been shortened here to be consistent with the Approved Course of Instruction to Inter-agency coordination. Inter-agency coordination is an integral part of both the REOC organization and the procedures, which function within the REOC. The REOC General Staff will serve as the primary group responsible for development of REOC Action Plans, and be a member of any inter-agency coordination group.

The REOC Director may convene meetings of personnel needed for inter agency coordination purposes. The meetings can be at the General Staff, section or branch

level and include other agencies. Subject areas and discussion issues will determine the participants.

An ad-hoc task force may also be used as an effective application of inter-agency coordination to solve specific problems. The REOC Director would assign key personnel from various functional area or disciplines to work together on the task force.

12. Action Planning at the REOC Level

Action planning at the REOC, is based around an operational period. The length of the operational area period is determined by first establishing a set of objectives and priority actions that must be performed. A reasonable time frame for accomplishing those actions is then established. The actions requiring the longest time period generally will define the length of the operational period. Typically, operational periods at the beginning of an emergency are short, sometimes only a few hours. As the emergency progresses, operational periods may be longer, but should not exceed twenty-four hours.

The initial REOC Action Plan may be a verbal plan established in the first hour after EOC activation. It is usually prepared by the REOC Director and the general staff. Subsequent plans should be in writing and follow an established format.

REOC action planning need not be a complex process. The Action Plan should generally cover the following elements:

1. Operational Period Designation - (The time frame within which the action plan will be in effect)
2. Statement of current priorities
3. Listing of objectives to be accomplished (should address the priorities and be measurable in some way)
4. Statement of strategy to achieve the objectives (Identify if there is more than one way to accomplish the objective, and which method is preferred)

5. Assignments necessary to implement the strategy

6. Organizational elements to be activated to support the assignments (Also may list organizational elements that will be deactivated during or at the end of the period)

7. Logistical or other technical support required

A more detailed discussion of Action Planning is covered in Guidelines Part III, Supporting Documentation. Action Planning is also covered in more detail in the EOC Level Approved Course of Instruction (ACI).

13. Response Information Management System (RIMS) at the Region

The Response Information Management System (RIMS) is an Internet based computer system used for communicating critical emergency information, requesting and monitoring resource requests from the operational areas EOCs to the REOC. Standard forms allow for rapid information gathering and reporting. Resource requests are facilitated through standard resource request forms that enables tracking and monitoring of requests. All operational areas are connected to their respective REOC through RIMS. RIMS is the primary means for tracking emergency information and resource requests.

14. Role of the Operational Area Satellite Information System (OASIS) at the Region

The Operational Area Satellite Information System (OASIS) is a satellite based communications system with a high frequency radio backup. OASIS provides the capability to rapidly transfer a wide variety of information reports between OASIS user agencies. OASIS can be viewed as both a communications network and information dissemination system linking three of the five SEMS organizational levels.

OASIS can be utilized as a primary communications system when other modes are impacted or as a backup to existing systems. OASIS Users include, OES State Headquarters, OES Regions and all State operational areas. The intent of OASIS is to provide disaster-proof communications between the operational areas, state OES Regions, OES Headquarters and mobile state telecommunications units. The communications component of OASIS does not extent into the local government level of SEMS. However, RIMS forms can be transmitted through the different SEMS levels with OASIS.

The communications components to the system include a satellite system in each county operational area linked to selected state, federal and local agencies. OASIS provides voice lines as well as data. OASIS also includes a high frequency radio backup system between selected facilities.

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THIRD READING

Bill No: AB 781
Author: Maienschein (D)
Amended: 6/20/23 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 6/27/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 80-0, 5/30/23 - See last page for vote

SUBJECT: Accessibility to emergency information and services: emergency shelters: persons with pets

SOURCE: ASPCA

DIGEST: This bill requires, upon the next update to a city or county's emergency plan, or whenever a city or county designates any number of emergency shelters, that emergency plan be updated to designate emergency shelters able to accommodate persons with pets, as specified. Additionally, this bill requires a city or county, to the extent practicable, designate at least one cooling or warming center that can accommodate persons with pets, as specified.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Emergency Services Act (ESA), that political subdivisions have full power during a local emergency to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements.

2) Defines "emergency plan" to mean official and approved documents that describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies.
3) Requires the Office of Emergency Services (OES) to approve and adopt, and incorporate the California Animal Response Emergency System (CARES) program developed under the oversight of the Department of Food and Agriculture (CDFA) into the standardized emergency management system, as specified.

4) Provides that a city or county that requires a kennel license or permit to operate a kennel within its jurisdiction must require, as a condition for obtaining the license or permit, that the kennel owner create and submit to the city or county an animal natural disaster evacuation plan, as specified.

This bill:

1) Requires, upon the next update of a city or county's emergency plan, all of the following:

    a) A county shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.
    b) A city that has previously adopted an emergency plan designating emergency shelters shall update its emergency plan to designate emergency shelters able to accommodate persons with pets.
    c) Whenever a city or county designates any number of emergency shelters, the city or county shall designate at least one emergency shelter that can accommodate persons with pets.

2) Requires, upon the next update of a city or county's emergency plan, whenever a city or county designates any number of emergency cooling centers or emergency warming centers, the city or county shall, to the extent practicable, designate at least one center that can accommodate persons with pets.

3) Provides that any emergency shelter designated as able to accommodate persons with pets shall be in compliance with both of the following:

    a) Safety procedures regarding the sheltering of pets referenced or established in the component of the state and local emergency plan.
    b) Applicable disaster assistance policies and procedures of the Federal Emergency Management Agency (FEMA).

4) Requires a city or county, whenever providing public information regarding the availability of a cooling center or warming center, to include whether the center can accommodate pets.

5) Requires a city or county to make available to the public, by posting on its internet website, information for pet emergency preparedness, including, but not limited to:

   a) Information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by CDFA and FEMA.
   b) Local organizations that may provide emergency pet assistance.
   c) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate persons with pets.

6) Defines "cooling center" to mean a facility established to mitigate the public health impacts of extreme heat.

7) Defines "emergency shelter" to mean a temporary or provisional safe space that provides a basic shelter for people affected by disaster.

8) Defines "pet" to mean a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.

9) Defines "warming center" to mean a facility established to mitigate the public health impacts of extreme cold.

10) Includes legislative findings and declarations related to the severe risks that natural disasters and extreme weather events pose to public health, safety, and pets in California.

Background

Author Statement. According to the author's office, "the rate of natural disasters and extreme weather is rapidly increasing across California, causing significant risk to public health and community safety. Sharing in this risk, are residents' pets, the impact that they have on Californians decision-making during an emergency, and the level of preparedness required to ensure safe and effective emergency evacuations."

Further, the author's office notes that, "Assembly bill 781 would require a county to update its emergency plan so designated emergency shelters are able to accommodate persons with pets. Not only would this help organize emergency response, streamline messaging to increase public emergency planning and safety, but also conserve valuable personal and financial resources for use across multiple emergencies."

Pets Evacuation and Transportation Standards Act. The Pets Evacuation and Transportation Standards Act (PETS) was a bi-partisan initiative in the United States House of Representatives requiring states seeking FEMA assistance to accommodate pets and service animals in their plans for evacuating residents facing disasters. The bill was introduced in the aftermath of Hurricane Katrina when the abandonment of many thousands of pets and other animals brought the matter of animal welfare during emergencies to national attention. In the aftermath of Hurricane Katrina, the Bush administration conducted a review of public relief efforts and where the infrastructure in place at the time failed.

California Animal Response Emergency System. In 2006, Governor Arnold Schwarzenegger signed AB 450 (Yee, Chapter 604, Statutes of 2006) which mandated that CARES be incorporated into the state emergency plan (SEP), and that CDFA and OES enter into a Memorandum of Understanding (MOU) that would require them to incorporate CARES into their emergency planning. CARES is intended to help manage the evacuation, sheltering, and care of animals during disasters. CARES works with local agencies, nonprofit groups, and individual volunteers to accomplish this mission.

The 2021-2022 California Budget, and associated trailer bill, allocated $3 million per year to the University of California, Davis, School of Veterinary Medicine in order to develop the California Veterinary Emergency Team program. This program must support a network of government agencies, nongovernmental organizations, and individuals to assist in the evacuation and care of animals and livestock in all stages of a disaster or emergency. When there is not an active emergency, the program will conduct ongoing research, recruit, train and prepare volunteers, and train veterinarians and veterinary students on best practices in shelter and emergency medicine.

CDFA's CARES internet website includes helpful information and links to provide operational guidance to assist with all aspects of animal care in the event of a disaster or emergency with the assistance of agencies and volunteer organizations. The CARES Unit resides within the Emergency Preparedness and response Section

of the Animal Health Branch in the Animal Health and Food Safety Services Division of CDFA. The CARES Unit provides assistance to the California Emergency Support Function 11 Food and Agriculture. To meet animal disaster related responsibilities, CDFA leverages the CARES Unit to coordinate State agency response in support of local government and with the assistance of volunteer organizations.

Last year, this author introduced, and the Governor signed, AB 1648 (Maienschein, Chapter 547, Statutes of 2022) required any city or county, as a condition of obtaining a kennel license or permit, that the kennel owner create and submit to the city or county an animal natural disaster evacuation plan.

This bill furthers that cause by requiring a city or county, upon the next update of its emergency plan, to designate emergency shelters able to accommodate persons with pets. This bill requires, whenever a city or county designates any number of emergency shelters, to designate at least one emergency shelter that can accommodate persons with pets. Whenever a city or county designates any number of emergency warming or cooling centers, this bill requires, to the extent practicable, that city or county to designate at least one cooling or heating center that can accommodate persons with pets.

Additionally, this bill requires a city or county to make available on its internet website information for pet emergency preparedness, including information for creating an evacuation plan and emergency checklist for pets consistent with recommendations publicly published by CDFA and FEMA.

Related/Prior Legislation

AB 1141 (M. Dahle, 2023) expands the scope of the current livestock pass program during declared emergencies to include "qualifying agricultural producers" for the purpose of granting access to a pass holder's farm or ranch during or following a natural disaster, as specified. (Pending in the Senate Agriculture Committee)

AB 1648 (Maienschein, Chapter 547, Statutes of 2022) required any city or county to require, as a condition for obtaining a kennel license or permit, that the kennel owner create and submit to the city or county an animal natural disaster evacuation plan, as specified.

AB 450 (Yee, Chapter 604, Statutes of 2005) required OES to approve and adopt, and incorporate the ACRES program into the standardized emergency management system, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown, potentially significant state reimbursable mandated costs for cities and counties to update their emergency plans, designate at least one emergency shelter able to accommodate persons with pets, and post specified information online (General Fund). There may also be significant costs for counties that do not already have an existing shelter able to safely accommodate persons with pets to provide an emergency shelter that complies with the mandates of this bill.

SUPPORT: (Verified 9/1/23)

ASPCA (source)
American Kennel Club
Animal Legal Defense Fund
California Animal Welfare Association
California Association of Recreation & Park Districts
County of Santa Clara
Genasys Corporation
Humane Society of The United States
RedRover
San Diego Humane Society and SPCA
San Francisco SPCA
Sierra Business Council
Social Compassion in Legislation
The Arc and United Cerebral Palsy California Collaboration

OPPOSITION: (Verified 9/1/23)

None received

ARGUMENTS IN SUPPORT: In support of the bill, the ASPCA writes that they "recently completed a survey of 1,000 Californians, including 250 Spanish language speakers, which found that of the 16% of Californians who plan to utilize a public evacuation center during an emergency, 76% plan to bring their pets with them. Of respondents who reported that they chose not to evacuate in a previous disaster, one in four stayed behind because they did not have access to pet-friendly accommodations."

Further, the ASPCA states that OES "outlines the following assumption in their disaster planning documents: 'Historical disaster experience has demonstrated that the human/animal bond is strong; many people will not heed emergency management orders to evacuate and seek shelter if they cannot bring their animals with them.' Many California counties have a dedicated webpage, or section of a webpage, dedicated to companion animal emergency preparedness. However, very few of those webpages have information regarding the availability of emergency shelter options in the event of a disaster or extreme weather event. The message to the public then is often 'Make sure you have researched pet-friendly hotels in the area and identified any friends and family who could take your animals.' This is obviously prohibitive for many families who cannot afford sudden hotel expenses or do not have local network."

And the ASPCA notes that preparing "for the inclusion of dedicated co-shelters in every emergency operations plan, as in AB 781, would increase disaster preparedness among pet owners, increase public safety, reduce evacuation noncompliance, allow for pet owners to handle the care of their animals during the emergency, soothe mental health issues and stressors that may arise in both humans and animals, and ensure a smooth intake and processing process for evacuees with companion animals."

ASSEMBLY FLOOR: 80-0, 5/30/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

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