

Title 19. Public Safety
Division 2. California Emergency Management Agency
Chapter 6. Disaster Assistance Act
Article 2. State Private Nonprofit Organizations Assistance Program

§ 2991. Definitions.

The following definitions apply to this article:

(a) Essential Community Services: Providing governmental type direct services to the community affected by an emergency or disaster, through the distribution of supplies and other disaster or emergency assistance activities. Private Nonprofit (PNP) activities are those that provide essential services including but not limited to food, water, and shelter.

(b) Hazard Mitigation: Any cost-effective measure which will reduce the potential for damage to a facility from a future disaster event.

(c) Intermediary Private Nonprofit (Intermediary PNP): Any private not for profit organization as defined in Section 2991(e) that, through written agreement with a local agency, is responsible for the coordination of multiple PNPs performing essential community services within the specific jurisdiction of that local agency.

(d) Local Agency: Any city, city and county, county, county office of education, community college district, school district, or special district.

(e) Private Nonprofit (PNP): Any private not for profit organization that is compliant with 44 CFR Section 206.221(f) having:

(1) 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 of 1954, or

(2) Satisfactory evidence from the state that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under state law.

§ 2992. General Provisions for Eligible Private Nonprofit (PNP) Activities.

(a) The PNP or Intermediary PNP applicant must meet all eligibility requirements described in this section.

(b) When a state of emergency is proclaimed by the Governor, an eligible PNP or the Intermediary PNP applicant may receive state assistance pursuant to Government Code Section 8692. This applies to any emergency proclaimed by the Governor on or after December 21, 2010.

(c) An eligible PNP applicant may receive state financial assistance as reimbursement for the performance of essential community services provided such expenditures meet all of the eligibility requirements.

(d) An eligible Intermediary PNP applicant may receive state financial assistance as reimbursement for the coordination of multiple PNPs performing essential community services provided such expenditures meet all of the eligibility requirements.

(e) No PNP activities resulting from self-deployment will be eligible for reimbursement.

(f) No state financial assistance shall be made available for any activity that occurs more than six (6) months from the date of the Governor's Proclamation without prior written approval from the California Emergency Management Agency (Cal EMA).

(g) An eligible PNP applicant shall utilize the application process as described in Section 2996. An eligible Intermediary PNP applicant shall utilize the application process as described in Section 2996.1.

§ 2993. PNP Applicant Eligibility.

(a) A PNP organization must meet all of the following criteria for eligibility to apply for state financial assistance:

(1) An eligible PNP applicant must meet the definition of PNP as defined in Section 2991(e).

(2) An eligible PNP applicant must provide essential community services as defined in Section 2991(a).

(b) A PNP organization is not eligible if it uses public funds for religious means as described in Government Code Section 8692(d) while providing emergency assistance activities.

§ 2993.1. Intermediary PNP Applicant Eligibility.

(a) An Intermediary PNP organization must meet all of the following criteria for eligibility to apply for state financial assistance:

(1) An eligible Intermediary PNP applicant must meet the definition of an Intermediary PNP as defined in Section 2991(c).

(2) An eligible Intermediary PNP applicant must be responsible for the coordination of multiple PNPs as described in a written agreement with the requesting local agency. The written agreement shall meet all of the following requirements:

(A) The written agreement shall contain a list of the PNPs performing essential community services that the Intermediary PNP is responsible for coordinating.

(B) The written agreement shall describe the process the requesting local agency will utilize to request the Intermediary PNP to provide the coordination of essential community services performed by the listed PNPs.

(C) The written agreement shall be executed within 30 days of the date of the Governor's State of Emergency Proclamation issued in response to an emergency or disaster.

(D) This deadline for the execution of the written agreement may be extended by the Cal EMA Secretary only for unusual or extraordinary circumstances upon written request by the Intermediary PNP or requesting local agency.

(3) An eligible Intermediary PNP, as an applicant requesting reimbursement on behalf of the PNPs they are responsible for coordinating, must have a written agreement with these PNPs. The written agreement shall meet all of the following requirements:

(A) A description of the process for the local agency to request the performance of essential community services by the listed PNPs through the Intermediary PNP.

(B) An authorization statement with signature that the Intermediary PNP will comply with the procedures and requirements described in the agreement.

§ 2994. PNP Activities Eligibility.

(a) To be eligible for state financial assistance, the PNP activities must meet all the following criteria:

(1) Eligible activities must be requested by a local agency or the state and completed within a timeframe established by the requesting agency. A written agreement between an eligible PNP and the requesting local agency may replace such request if the agreement specifies the requirements of deployment and is executed prior to providing the essential community services.

(2) Eligible activities must relate directly to a state of emergency as proclaimed by the Governor and be in support of the community affected by the emergency or disaster.

(3) Consistent with Government Code Section 8692(d), eligible activities must comply with state and federal civil rights laws that prohibit discrimination, and the First Amendment to the United States Constitution with regard to the use of public funds for religious activities.

(b) Hazard mitigation, repair or permanent restoration to facilities or real property damaged by an emergency or disaster are not eligible activities under this section.

§ 2994.1. Intermediary PNP Coordination Activities Eligibility.

(a) To be eligible for state financial assistance, the Intermediary PNP coordination activities must meet all the following criteria:

(1) Eligible coordination activities must be requested by a local agency in accordance with a written agreement between the Intermediary PNP and the local agency.

(2) Eligible activities include the coordination of multiple PNPs listed in the written agreement in the performance of essential community services for the requesting local agency.

(3) Consistent with Government Code Section 8692(d), eligible activities must comply with state and federal civil rights laws that prohibit discrimination, and the First Amendment to the United States Constitution with regard to the use of public funds for religious activities.

(4) Eligible coordination activities must relate directly to a state of emergency as proclaimed by the Governor and be in support of the community affected by the emergency or disaster.

§ 2995. PNP Cost Eligibility.

(a) Eligible activities must result in documented extraordinary costs.

(b) Reasonable equal value replacement costs for documented pre-event inventory provided to the community affected by the proclaimed emergency or disaster may be eligible for reimbursement if the inventory is necessary to the PNP's ability to provide the essential community services requested by the local agency or the state.

(c) PNP costs as described below are ineligible for state financial assistance.

(1) No state financial assistance will be provided for costs or expenditures prohibited by the federal or state constitution, federal or state law, or federal or state regulation.

(2) No reimbursement will be provided for donated resources received by the PNP on or after the first day of the incident period as specified in the Governor's State of Emergency Proclamation for the emergency or disaster for which the PNP is seeking reimbursement by the state.

(3) No reimbursement will be provided for donated or volunteer labor.

(4) No reimbursement will be provided for vouchers, debit cards or other monetary relief provided to the community affected by an emergency or disaster.

(5) No state financial assistance will be provided for damages caused by negligence or intentional acts.

(6) No funds allocated shall be used to supplant state or federal funds otherwise available in the absence of state financial relief or assistance.

§ 2995.1. Intermediary PNP Cost Eligibility.

(a) Eligible coordination activities of multiple PNPs performing essential community services must result in documented extraordinary costs.

(b) Intermediary PNP coordination costs as described below are ineligible for state financial assistance.

(1) No state financial assistance will be provided for costs or expenditures prohibited by the federal or state constitution, federal or state law, or federal or state regulation.

(2) No funds allocated shall be used to supplant state or federal funds otherwise available in the absence of state financial relief or assistance.

§ 2996. PNP Application Process.

(a) An eligible PNP applicant must submit to Cal EMA, a PNP Application (Cal EMA PNP-2011-APP, 5/2011), hereby incorporated by reference, within 60 days after the date of a Governor's Proclamation.

(1) The Secretary or his/her designee may extend this deadline only for unusual or extraordinary circumstances.

(2) Prior to application approval by Cal EMA, an eligible PNP applicant shall also submit a PNP Applicant's Authorized Agent Resolution (Cal EMA PNP-2011- AAR, 5/2011), hereby incorporated by reference.

(b) An eligible PNP applicant must submit a PNP Activities Claim Form (Cal EMA PNP-2011-ACF, 5/2011), hereby incorporated by reference, within 60 days of the completion of all eligible activities.

(1) After receipt of the PNP Activities Claim Form, Cal EMA may schedule an onsite review of supporting documentation.

(2) The state shall provide one hundred (100) percent of the total cost of eligible PNP activities.

(3) Upon approval of eligible costs, Cal EMA will process an allocation through the State Controller's Office. The state shall make no allocation less than one thousand dollars (\$1,000).

(4) If the state allocation is less than the total costs submitted on the PNP Activities Claim Form, an eligible PNP applicant has the right to a fair hearing pursuant to Section 2997.

(c) An eligible PNP applicant providing sustained operations may submit a PNP activities claim prior to the completion of all eligible activities providing the PNP can demonstrate financial hardship.

§ 2996.1. Intermediary PNP Application Process.

(a) An eligible Intermediary PNP applicant must submit to Cal EMA, a completed PNP Application (Cal EMA PNP-2011-APP, 5/2011), hereby incorporated by reference, within 60 days after the date of a Governor's Proclamation.

(1) The Secretary or his/her designee may extend this deadline only for unusual or extraordinary circumstances.

(2) Prior to application approval by Cal EMA, an eligible Intermediary PNP Applicant's Authorized Agent Resolution (Cal EMA PNP-2011-AAR, 5/2011), hereby incorporated by reference.

(b) An eligible Intermediary PNP applicant must submit a PNP Activities Claim Form (Cal EMA PNP-2011-ACF, 5/2011), hereby incorporated by reference, within 60 days of the completion of all eligible coordination activities.

(c) The PNP Activities Claim Form submitted by the Intermediary PNP may include the eligible costs for all of the PNPs listed in their agreement that provided essential community services for the local agency. The Intermediary PNP will be responsible for processing the reimbursement to those listed PNPs included on their PNP Activities Claim Form.

(1) After receipt of the Intermediary PNP Activities Claim Form, Cal EMA may schedule an onsite review of supporting documentation.

(2) The state shall provide the Intermediary PNP one hundred (100) percent of the total eligible cost of the coordination activities and the total eligible cost paid by the Intermediary PNP to the PNPs they are responsible for coordinating.

(3) Upon approval of eligible costs, Cal EMA will process an allocation through the State Controller's Office. The state shall make no allocation less than one thousand dollars (\$1,000).

(4) If the state allocation is less than the total costs submitted on the activities claim, an eligible Intermediary PNP applicant has the right to a fair hearing pursuant to Section 2997.

§ 2997. Fair Hearing Processes.

(a) LEVEL ONE: The PNP or the Intermediary PNP shall submit a formal written description of the grievance with supporting documentation, to the Director of Statewide Operations (Director) of Cal EMA. The Director or his/her designee shall respond with a written decision within ten (10) working days from receipt. Should the PNP or the Intermediary PNP disagree with the decision, the PNP or the Intermediary PNP may appeal to the second level.

(b) LEVEL TWO: The PNP or the Intermediary PNP shall prepare a formal response disputing the decision made by the Director. The PNP or the Intermediary PNP response shall include the original description of the grievance with supporting documentation, together with a copy of the response from the Director. This response shall be sent to the Assistant Secretary of Prevention, Information Analysis and Operations (Assistant Secretary) of Cal EMA within thirty (30) working days from receipt of the decision of the Director. The Assistant Secretary or his/her designee shall issue a written decision to the PNP or the Intermediary PNP within sixty (60) working days of receipt of the PNP's or the Intermediary PNP's formal response. This written decision shall be deemed a final judgment for purposes of this fair hearing process.

§ 2998. Audit.

The Secretary or his/her duly authorized representative shall conduct audits and investigations as necessary to ensure compliance with these regulations. State auditors, and the Secretary or his/her duly authorized representative, shall have the right to question any person, as appropriate, and to access all financial and program records and supporting documentation pertinent to any activity funded under these regulations. The rights of access shall last for the full length of the retention period as required under these regulations.

§ 2999. Requirements for Records.

(a) The PNP or the Intermediary PNP applicant shall retain all financial and program records and supporting documentation, reasonably considered as pertinent to these regulations for three years from the starting date of the retention period. The Secretary or his/her duly authorized representative will notify each PNP or the Intermediary PNP applicant of the starting date of the retention period.

(b) Microfilm, microfiche, or other representations of original source documents may be accepted in lieu of original source documents, if the eligible PNP or the Intermediary PNP applicant provides to Cal EMA an independent or internal auditor's report attesting to the accuracy of the alternate forms of original source documents.

Note: Authority cited: Section 8692, Government Code. Reference: Section 8692, Government Code.

HISTORY

1. New section filed 2-18-2011 as an emergency; operative 2-18-2011 (Register 2011, No. 7). A Certificate of Compliance must be transmitted to OAL by 8-17-2011 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 2-18-2011 order, including amendment of section heading and renumbering of former section 2999 to section 2996 and renumbering and amendment of former sections 2999.4 and 2999.5 to section 2999, transmitted to OAL 4-1-2011 and filed 5-12-2011; amendments operative 5-12-2011 pursuant to Government Code section 11343.4(c) (Register 2011, No. 19).

19 CCR § 2999, 19 CA ADC § 2999

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