



## PUBLIC ASSISTANCE: PRIVATE PROPERTY DEBRIS REMOVAL – HURRICANE MICHAEL

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

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

### General PPDR Approval Process

For major disasters declared as a result of Hurricane Michael, FEMA is simplifying the process for PPDR approval. Applicants must provide a written notice through the Recipient (State, Tribal, or Territorial government) to FEMA identifying areas where PPDR activities will occur (including identification of gated or ungated communities, orphan roads, and commercial properties).

Once the notice is submitted, FEMA will engage with the Recipient and Applicant to review and adjudicate the PPDR request as quickly as possible. With the exception of debris removal from commercial property, Applicants do not need to wait for FEMA approval to start work, particularly road clearance activities. However, FEMA will only approve reimbursement based on the Applicant's satisfactory demonstration (including relevant documentation) that the:

- Applicant has legal authority to perform PPDR and agrees to indemnify the Federal Government (including FEMA),
- PPDR was in the public interest,
- Applicant obtained and complied with applicable permits or approvals for the locations of temporary debris staging and reduction sites and final debris disposal sites, and
- Applicant has thoroughly documented the location, type and quantity of debris, and the scope of debris clearance and/or removal work performed.

The Federal Coordinating Officer will review and approve or deny PPDR requests.

## **Establishing Legal Authority for PPDR and Indemnification**

FEMA will accept a written statement from an authorized Applicant official that:

- Certifies that the Applicant has legal authority and responsibility to perform the requested PPDR,
- Cites all applicable sources of authority (law, ordinance, code, contract, etc.), and
- Indemnifies the United States for any claim arising from the debris removal.

## **Public Interest Determination**

As described below, FEMA has determined that debris clearance on private roads to provide emergency access and debris removal from private roads where the public has unrestricted access and frequently uses the road is in the public interest. For all other PPDR, an Applicant must provide the basis for its determination that removing the debris from the private property is in the public interest. The determination must be made by the State, Territorial, Tribal, county, or municipal government's public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property in the designated area constitutes an immediate threat to life, public health or safety, or to the economic recovery of the community at large. FEMA will evaluate the Applicant's submission to determine whether PPDR is in the public interest.

### **Emergency Access on Private Roads – Debris Clearance**

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. Clearance of private roads, including orphan roads, roads in gated communities, homeowners' association roads, etc. is in the public interest 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 may include removal and disposal during the initial pass as necessary to ensure emergency access. The Applicant is not required to submit documentation demonstrating that debris clearance is in the public interest.

### **Debris Removal from Private Roads**

Debris clearance activities that provide emergency access on private roads may be sufficient to eliminate immediate threats to public health and safety. Once clearance activities are complete additional work to remove and dispose of the debris on private rights-of-way may exceed what is in the public interest. For example, clearance of vegetative debris from the private roads in lightly populated or undeveloped areas may sufficiently eliminate the public health and safety threat. However, if the public has unrestricted access (no locks, gates, or guards) and frequently uses the private road, then removal and disposal of the debris, including debris placed at the curbside by residents, is in the public interest and the Applicant is not required to submit documentation demonstrating the debris removal is in the public interest. This does not include removal and disposal activities from private roads in areas with restricted access (roads behind locks, gates, or guards). If access to the road is restricted, the Applicants will have to provide further documentation to establish that removal is in the public interest and, though not required, Applicants should consider obtaining approval from FEMA prior to starting removal and disposal.

## **Debris Removal from Residential Property**

Debris removal from residential property frequently is not in the public interest because the debris does not typically present an immediate health and safety threat to the general public and is generally the responsibility of individual private property owners. However, if the disaster generates debris quantities and/or types of debris on residential 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. Given this additional requirement, Applicants should consider obtaining approval from FEMA prior to starting work.

## **Debris Removal from Commercial Property**

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, agricultural property, and trailer parks, is generally not eligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may grant an exception. Debris removal from commercial property requires pre-approval from FEMA in order to be eligible for funding under the PA Program.

## **Duplication of Benefits**

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

## **Environmental Considerations for Debris Removal**

FEMA must ensure that the Applicant's debris removal operations avoid impacts to floodplains, wetlands, Federally-listed threatened and endangered species and their critical habitats, and historic properties (including maritime or underwater archaeological resources if waterways are impacted). The Applicant must stage debris at a safe distance from property boundaries, surface water, wetlands, structures, wells, and septic tanks with leach fields. For more information on EHP compliance associated with debris removal please refer to the *Environmental and Historic Preservation (EHP) Fact Sheet: Debris Removal Activities* as well as the Public Assistance Program and Policy Guide dated April 2018.