



PUBLIC ASSISTANCE: PRIVATE PROPERTY DEBRIS REMOVAL DR-4332-TX

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to states, tribes, and local governmental entities, as well as certain private non-profit organizations (hereinafter referred to as applicants). FEMA's *Public Assistance Program and Policy Guide* (<http://www.fema.gov/public-assistance-policy-and-guidance>) provides comprehensive information regarding FEMA assistance and the requirements that applicants must meet in order to receive the assistance. The purpose of this Fact Sheet is to provide key information to consider when planning debris removal from private property.

Private property debris removal (PPDR) is generally not eligible for reimbursement under the PA Program. In limited circumstances, based on the severity of the impact of an incident, FEMA may determine that debris removal from private property is eligible under the PA Program. In making its determination, FEMA evaluates whether the impacts of debris on private property affect the general public in that community and whether the Applicant has legal authority to perform the work.

If debris on private property is so widespread that it threatens public health and safety or the economic recovery of the community, FEMA may provide PA funding for debris removal from private property. This debris removal must be in the public interest, not merely benefiting an individual or a limited group of individuals within the community.

In such cases, FEMA works with the state, territorial, tribal, and local governments to designate specific areas where debris removal from private property, including private waterways, is eligible.

Approval for PPDR

Traditionally, FEMA requires written approval prior to starting work. FEMA requires this to ensure that applicants have followed all legal processes and provided documentation to support that removal of the debris is in the public interest. Due to the magnitude of DR-4332-TX, FEMA is simplifying the process. Applicants must provide a written notice through the State to FEMA identifying the areas where it will be conducting PPDR (including identification of any orphaned roads, gated or ungated communities, or commercial property). Once submitted, the Applicant does not need to wait for FEMA approval to start work. However, FEMA approval is required to receive reimbursement and FEMA can only approve it if the Applicant documents how the removal is in the public interest.

The Applicant must provide the following information prior to receiving reimbursement:

- A public interest determination;
- Documentation supporting the Applicant's legal authority to remove the debris; and
- Indemnification.

The Applicant must provide confirmation that it has satisfied all legal processes and obtained permission requirements from the property owners (rights-of-entry or other unconditional authorization) and agreements to indemnify and hold harmless the Federal Government.

Debris Removal from Commercial Property

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks, is generally ineligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may provide an exception.

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; consequently, FEMA PA staff will coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

PPDR WRITTEN REQUEST: ELEMENTS

Public Interest Determination

- Provide the basis for the determination that removing the debris from the private property requested 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.
- Submit the established, specific legal requirements for declaring the existence of a threat to public health and safety.

Legal Authority and Responsibility

- Provide documentation to confirm the Applicant's legal authority and responsibility to enter private property and remove disaster-related debris. This includes:
- Citation of the law, ordinance, code, contractual arrangement, or emergency powers under which it is exercising its legal authority to remove debris from private property. The authority cited must be applicable to the condition representing the immediate threat and not merely the Applicant's uniform level of services. Typically, solid waste disposal ordinances are part of the Applicant's uniform level of services and not a justification for entering private property to remove disaster-related debris.
- 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 designated area to remove debris to address immediate threats to life, public health, and safety.

Indemnification

- The Applicant must indemnify the Federal Government and its employees, agents, and contractors from any claims arising from the removal of debris from private property.

General Environment and Historic Preservation Concerns – Conditions for Implementation of PPDR

PPDR will have no effect or limited effect on natural resources or historic properties if implemented as specified in this guidance. FEMA Environmental and Historic Preservation will not need to review the PPDR location prior to the start of debris removal if these general guidelines are adhered to.

The Applicant may remove and collect debris, including the transport and disposal of such waste to existing licensed solid waste facilities or landfills. This includes any temporary, and Texas Commission of Environmental Quality (TCEQ) pre-approved location to establish and/or the expansion of existing non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or new or existing hard-topped or graveled surface (e.g. parking lots, roads, athletic courts). This does not include or allow the creation of new and/or temporary access roads to support removal operations.

The Applicant may remove debris from private property provided that physical structures, including those damaged structures, are not affected; ground disturbance is minimal and in-ground elements, such as driveways, walkways, swimming pools, and tree root balls, are left in place. Heavy equipment should be limited to existing rights-of-way or hardened surfaces wherever possible.

PPDR is prohibited in areas designated as federally protected critical habitat for any threatened or endangered species. Consultation with FEMA prior to initiation of any debris activities that may cause harm or take of any listed threatened or endangered species requires consultation and approval from FEMA, prior to initiating activities, if any of these situations exist.

PPDR and/or any debris removal action is prohibited from any waterways, lakes, streams, ponds or other natural or manmade water feature without prior consultation and approval from FEMA. PPDR should not occur in marine or beach-front environs or on sand dunes or other areas seaward of the vegetation line. PPDR should not occur in coastal areas within designated Coastal Barrier Resource Units without prior consultation and approval from FEMA.

The following debris removal best practices should be utilized when possible:

- Minimize ground disturbance (i.e. tire rutting, scraping, mechanized debris removal).
- Use of vehicles with rubber wheels or tracks to minimize ground disturbance.
- Limit work with the potential to cause subsurface impacts in extremely saturated soil conditions or areas inundated with standing water.
- Loading, vehicles and equipment should be staged and conducted on paved or otherwise previously disturbed or hard-top surfaces when safety isn't a concern.