



FEMA



FEMA

9523.2 Eligibility of Building Inspections in a Post-Disaster Environment

1. **DATE SIGNED:** June 23, 1998
2. **RESPONSE AND RECOVERY DIRECTORATE:** 9523.2
3. **SUBJECT:** Eligibility of Building Inspections in a Post-Disaster Environment
4. **PURPOSE:** This formalizes FEMA's policy on the eligibility of building inspections under FEMA's public assistance program in a post-disaster environment. Additional assistance for building inspections may be available under the Hazard Mitigation Grant Program.
5. **SCOPE AND AUDIENCE:** This policy formally prescribes eligible and ineligible costs associated with the performance of building inspections under FEMA's public assistance grant program in a post-disaster environment. It is intended for use by public assistance managers, staff and public assistance applicants. This policy has been in effect since 1994.
6. **BACKGROUND:** In response to requests generated by the Midwest floods for assistance in hiring additional building inspectors, FEMA issued a policy memorandum on October 4, 1993 entitled "Eligibility of Hiring Additional Building Inspectors." Under that policy, FEMA considered the increased demand for inspection services as an eligible emergency measure if such inspections were related to the disaster and were necessary to establish what course of action property owners needed to take in order to address their long-term housing needs. The policy stated that if the workload of building inspections had increased above normal levels, the costs of those building inspections were eligible if the inspections were for any one of the following purposes:
 - To determine if the building was substantially damaged beyond repair under National Flood Insurance Program (NFIP) regulations;
 - To determine if the building should be elevated or relocated;
 - To determine the repairs needed to make the building habitable; or,
 - To determine if an immediate threat to life, public health or public safety existed.

Inspections associated with the normal building regulation enforcement process were ineligible. Costs eligible for assistance were the actual net increase in cost of the inspections; to that end, fees normally collected for these inspections were deducted from the cost of the inspections. If permit fees were waived for these inspections, the amount that would have been charged was deducted. The 1993 policy was reviewed and revised soon after the issuance of the memorandum. This document formalizes the revised policy.

7. **DISCUSSION:** The new policy changes FEMA's past policy. The following inspections are ineligible for funding under the public assistance program:
 - To determine if the building was substantially damaged beyond repair under NFIP regulations;
 - To determine if the building should be elevated or relocated; and,
 - To determine the repairs needed to make the building habitable.

These inspections, however, may be eligible under the Hazard Mitigation Grant Program.

FEMA's formalization of policy in this area is one of proper interpretation of the extent of assistance permitted by the pertinent sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P. L. 93-288 as amended (Stafford Act). Under section 403(a)(3)(I) of the Stafford Act, FEMA's public assistance grant program can provide assistance for, "reduction of immediate threats to life, property, and public health and safety" (emphasis added). Accordingly, FEMA may provide grants and/or direct assistance to a State or community to inspect buildings to ensure immediate safe occupancy and perform other enforcement activities on damaged buildings to ensure public health and safety benefits. The three types of inspections listed above do not meet this intent of the Act and are classified more appropriately as related to re-construction and repair, rather than to safety.

Under section 406 of the Stafford Act, FEMA's Public Assistance program can provide assistance for the repair, restoration, reconstruction, or replacement of eligible facilities which are damaged or destroyed by a major disaster. Eligible costs may include any permit and inspection fees required for the repair of eligible facilities. With regard to privately-owned, insured structures, allowances for permit fees and related expenses are generally included through insurance proceeds. Additionally, for those applicants who qualify for Small Business Administration loans, building permit fees are approved expenses as part of the loan when building permit fees are required by a local jurisdiction following a disaster.

Normally, increased code enforcement activity as a result of a disaster is not considered essential to meeting the immediate threats to life and property. In fact, code enforcement reflects the normal rebuilding process, rather than the immediate response efforts designated under section 403. Building permit fees (usually based upon a percentage of construction cost) are used to cover the costs associated with the processing of a permit, reviewing of drawings, details and specifications, performing periodic and final site inspections for codes compliance, and permit closure. By establishing an appropriate permit fee, a local building department could provide a means for hiring additional staff to handle an increased rebuilding workload.

8. **POLICY:** Under section 403 of the Stafford Act, FEMA can consider the increased demand for inspection services as an eligible emergency protective measure if such inspections are related to the disaster and are necessary to establish if a damaged structure poses an immediate threat to life, public health or safety after a disaster (hereinafter referred to as safety inspection). Inspections associated with the reconstruction effort and normal building regulation enforcement process are ineligible, since these go beyond the scope of a safety inspection.

Eligible costs for safety inspections will be written as "Category B" work on the DSR. In accordance with 44 CFR 206.204, emergency work must be completed within six months of the disaster declaration. Extensions for extenuating circumstances or unusual project requirements beyond the control of the Subgrantee must be approved by FEMA if they change the approved scope of work or project cost. Short-term allowable costs, e. g., overtime for permanently employed staff (i.e., no straight-time), hiring and/or contracting of additional staff, additional office space for staff, telecommunications set-up, etc., may be eligible if in accordance with 44 CFR 206.228, 44 CFR Part 13 and OMB Circular A-87.

9. **KEY WORDS:** Building Permit Fees; Emergency Work; Building Inspections; Life, Health and Safety Inspections; Stafford Act, Sections 403 and 406; Category B.
10. **SUPERSESSION:** This policy supersedes the memorandum entitled Eligibility of Hiring Building

Inspectors, dated October 4, 1993, and any other public assistance program policy and guidance, same subject.

11. **REFERENCE:** Joint MT/RR memorandum entitled Eligibility of Assistance to Building and Land-Use Departments following a Disaster, dated September 15, 1997.
12. **AUTHORITIES:** Sections 403 and 406 of the Stafford Act, 44 CFR Part 206
13. **ORIGINATING OFFICE:** Infrastructure Division, Response and Recovery Directorate
14. **REVIEW DATE:** Two years from date of publication
15. **SIGNATURE:**

signed

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16. **DISTRIBUTION:** Regional Directors, Regional and Headquarters R&R Division Directors