

~~–PROPOSED–~~
PNP REGULATION TEXT
April 23, 2010

TITLE 19. PUBLIC SAFETY
DIVISION 2. OFFICE OF EMERGENCY SERVICES
CHAPTER 6. DISASTER ASSISTANCE ACT

PNP Regulation

§ 3000. Definitions

(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. PNP activities are those critical to sustaining life, 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) Private Nonprofit (PNP): Any private not for profit organization that is compliant with 44 CFR Section 206.221(7) (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.

§ 3010. General Provisions for Eligible Private Nonprofit (PNP) Activities

(a) The 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 applicant may receive state assistance pursuant to Government Code Section 8692. This section applies to events proclaimed by the Governor after the effective date of the regulations.

(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 described in this section.

(d) No PNP activities resulting from self-deployment will be eligible for reimbursement under this section.

(e) 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).

(f) An eligible PNP applicant shall utilize the application process as described in this section.

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§ 3020. 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 3000(c).

(2) An eligible PNP applicant must provide essential community services as defined in Section 3000(a).

(3) An eligible PNP applicant must coordinate with the requesting local agency or the state through a written agreement which shall be executed prior to providing essential community services.

(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.

§ 3030. 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.

(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 law 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.

§ 3040. PNP Cost Eligibility

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

(b) 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.

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(2) No reimbursement will be provided for the replacement of any donated resource, including materials and labor.

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

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

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

§ 3050. PNP Application Process

(a) An eligible PNP applicant must submit to the Cal EMA, a completed PNP application 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 applicant shall also submit a resolution designating an authorized representative.

(b) An eligible PNP applicant must submit a PNP activities claim within 60 days of the completion of all eligible activities.

(1) After receipt of the PNP activities claim, 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 activities claim, an eligible PNP applicant has the right to a fair hearing pursuant to Section 3060.

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

§ 3060. Fair Hearing Processes

(a) LEVEL ONE: The 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 or her designee shall respond with a written decision within ten (10) working

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days from receipt. Should the PNP disagree with the decision, the PNP may appeal to the second level.

(b) LEVEL TWO: The PNP shall prepare a formal response disputing the decision made by the Director. The 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 or her designee shall issue a written decision to the PNP within sixty (60) working days of receipt of the PNP's formal response. This written decision shall be deemed a final judgment for purposes of this fair hearing process.

§ 3070. 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.

3080. Retention Requirements for Records

The 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 applicant of the starting date of the retention period.

§ 3090. Original Source Documentation

Microfilm, microfiche, or other representations of original source documents may be accepted in lieu of original source documents, if the eligible 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.