

**PUBLIC ASSISTANCE PROGRAM  
DEBRIS REMOVAL FACT SHEET FOR LOCAL GOVERNMENTS  
FEMA-4020-DR-NY**

This Fact Sheet was prepared to provide information about how the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) program can reimburse certain debris removal activities performed by eligible applicants. Eligible applicants are State and local governments, and certain private non-profits (PNPs) that perform a government-like service, within Presidentially-declared disaster counties. FEMA reimbursement is made on a 75% federal--25% non-federal basis.

- On August 26, 2011 the NYS Department of Environmental Conservation (DEC) issued an Emergency Declaration covering emergency actions in response to Hurricane Irene. Local governments and others seeking information on burning and handling debris, dam safety, quarantining invasive species, hazardous waste, permitting and approvals (including emergency authorizations for hurricane-related repairs), and other matters under the jurisdiction of the DEC should view the agency's website at [www.dec.ny.gov](http://www.dec.ny.gov) or contact the appropriate DEC regional office (see [www.dec.ny.gov/about/50230.html](http://www.dec.ny.gov/about/50230.html) for addresses and phone numbers).

DEC has also established a 24-hour dispatch phone number for registration information. County and local officials should contact DEC at 877-457-5680 before beginning any emergency work.

- Local governments and others doing work in waterways and other areas under the purview of the U.S. Army Corps of Engineers (USACE) are reminded that projects receiving expedited DEC permits and approvals may still require USACE coordination. Information about the USACE's Buffalo and New York Districts, including any emergency permits covering the repair of hurricane-damaged facilities, is available at [www.lrb.usace.army.mil/](http://www.lrb.usace.army.mil/) and [www.nan.usace.army.mil/index.php](http://www.nan.usace.army.mil/index.php), respectively.
- **This Fact sheet does not apply to debris removal activities undertaken by individuals and businesses.** Questions about those activities should be directed to the appropriate local government officials.

Under the Presidential Emergency Declaration for New York (FEMA-4020-DR-NY), FEMA may provide assistance to State and local governments for debris removal, including collection, pick-up, hauling, and disposal at a temporary site, segregation, reduction, and final disposal.

**Debris Removal Basics:**

1. Removal and disposal of disaster debris on public property -- roads, streets, and publicly-owned facilities -- is eligible for Federal assistance. Removal of debris from parks is eligible when it affects public health and safety or limits use.

2. Equipment and overtime costs are eligible for reimbursement. If an applicant chooses to award contracts for debris operations, those costs also are eligible. Exercise care! FEMA is authorized only to assist with reasonable costs.
3. The cost of debris removal by private individuals is not eligible; however, eligible applicants that choose to do so may be reimbursed for the removal of disaster-related debris brought to the curb for pick-up by a private property owner.
4. Only in very limited instances do FEMA's regulations allow reimbursement to eligible applicants that undertake debris removal activities on private property. Regardless, applicants must base decisions about debris removal from private property on life safety and property protection criteria, as they do absent a disaster declaration. Applicants with questions should contact Bill Dugan, State Public Assistance Officer, at 518-292-2293.

**Municipalities are encouraged to:**

- Use pre-negotiated contracts, if available;
- Consider using qualified local contractors because of their familiarity with the area;
- Request copies of references, licenses, and financial records from unknown contractors;
- Document the procedures used to obtain contractors;
- Work with their State-FEMA teams if technical assistance is needed for contracts and procedures.
- Review the guidance in "Developing and Monitoring Debris-Related Contracts for Eligible applicants" below.

***FEMA does not recommend, pre-approve, or certify any debris contractor. FEMA does not certify or credential personnel other than official employees and contract personnel assigned to the disaster by FEMA. Only FEMA has the authority to make determinations about applicant, facility or workscope eligibility.***

**Eligible Contracts:** Three general types of contracts may be used for debris operations:

1. **Time and Materials Contracts** may be used for short periods immediately after the disaster to mobilize contractors for emergency removal efforts. They must have a dollar ceiling or a not-to-exceed limit for hours (or both), and should be terminated immediately when those limits are reached. For FEMA reimbursement, such contracts should be limited to 70 hours of actual work. The contract should state that (a) the price for equipment applies only when equipment is operating, (b) the hourly rate includes operator, fuel, maintenance, and repair, (c) the community reserves the right to terminate the contract, and (d) the community does not guarantee a minimum number of hours.
2. **Unit Price Contracts** are based on weights (tons) or volume (cubic yards) of debris hauled, and should be used when the work is not well defined. They require close monitoring of pick-up, hauling, and dumping to ensure that quantities are accurate. Contracts may be complicated by the need to segregate debris for disposal.
3. **Lump Sum Contracts** establish the total contract price using a one-item bid from the contractor. They should be used only when the work is clearly defined.

**Ineligible Contracts:** FEMA will not provide funding for:

- Cost-plus-percentage of cost contracts;
- Contracts contingent upon receipt of State or Federal disaster assistance funding; or
- Contracts awarded to debarred contractors.

**Contract Monitoring:** The applicant should monitor the contractor's activities to ensure satisfactory performance. The State-FEMA can provide guidance and assistance with monitoring, if necessary. If an applicant has insufficient staff to properly monitor operations, the cost of additional staff for monitoring (or contracting for monitoring) is eligible for Federal funding.

**Documentation:** Applicants should keep the following information: debris estimates, procurement information (bid requests, bid tabulations, etc.), contracts, invoices, and monitoring information (load tickets, scale records). An applicant must retain payroll and equipment hours if it performs debris removal.

**Technical Assistance:** The State-FEMA team can provide technical assistance with planning, carrying out, and monitoring of debris removal operations. Contact the State Public Assistance Officer for more information. Call Bill Dugan, State Public Assistance Officer, at 518-292-2293.

### **Developing and Monitoring Debris-Related Contracts for Eligible Applicants**

1. FEMA does not certify, credential, or recommend debris contractors.
2. No debris contractor has the authority to make eligibility determinations.
3. Be familiar with FEMA eligibility and do not allow the contractor to make eligibility determinations. Eligibility information is available in numerous FEMA documents including:
  - the Public Assistance Guide (FEMA 322)
  - the Public Assistance Applicant Handbook (FEMA 323)
  - the Public Assistance Debris Management Guide (FEMA 325)
  - the FEMA Website [www.fema.gov](http://www.fema.gov).
4. Be certain the debris contract contains a clear and definitive scope of work, monitoring requirements, and specific language about what is required for each task.
5. Do not sign a contract until it has been thoroughly reviewed by your legal representative.
6. Always follow your organization's own procurement and bidding procedures. Use competitive bidding if possible.

7. You are responsible for payment of services contracted, even when those services are eligible for reimbursement by FEMA. FEMA and the State are not parties to a debris-related contract executed by you and your contractor.
8. It is FEMA policy to reimburse for only the first 70 hours of a time and materials contract.
9. All types of contracts must contain a requirement that records be kept showing the amount of debris picked up, hauled, and/or reduced to determine reasonable costs.
10. Every contract should also contain a "Termination for Convenience" clause. For example:

*This contract may be terminated at any time for the convenience of (the contracting entity). If this clause is executed, (the contracting entity) agrees to pay the contractor for all work completed through the termination date, as well as any demobilization costs that were a part of the original contract.*

11. The contract should contain a cap on costs. When that cap is reached, you should perform a review of work accomplished and modify the contract, if necessary.
12. Be sure the contract sets a reasonable period for the work to be done. Monitor the work to ensure compliance with the schedule for completion.
13. Be aware that many services offered for a fee by contractors may be available free from FEMA or the State.
14. Be certain that your costs are reasonable. FEMA pays only reasonable costs.
15. It may be necessary to use temporary debris storage and/or reduction sites, which can be expensive to develop and manage. Don't sign a contract for the use of such sites unless you know it is necessary. Call the State for assistance.
16. You, not the contractor, are responsible for monitoring and certifying debris operations. Be sure you have sufficient staff deployed for that task. If you do not have enough staff, hiring additional staff is eligible for funding according to the disaster cost share (usually 75% federal, 25% non-federal); however, those costs must be reasonable.

**Questions:** Call Bill Dugan, State Public Assistance Officer, at 518-292-2293.

