



Debris Removal from Private Property

Generally, debris removal from private property following a disaster is the responsibility of the property owner. Following a disaster local officials may implement various options to assist residents in the collection and disposal of debris which was a result of the disaster. Communities may develop drop sites where residents bring their debris or implement a curbside collection program, among other options. Voluntary Agencies may also offer disaster survivors help in clearing their property of disaster debris.

In certain circumstances, FEMA may reimburse eligible applicants (State, Tribal, and local governments or certain private non-profit) under the Public Assistance program for various methods of debris removal from private property. FEMA will reimburse eligible applicants for the cost of removing debris from streets and other rights of way. In extraordinary circumstances, State, Tribal or local officials may invoke their authority to declare that debris on private property is a health and safety threat to the public-at-large. This usually occurs in large-scale disasters where enormous quantities of debris are deposited on private property over a large area resulting in widespread immediate threats to the public-at-large. In such instances, the local government or its contractor will enter private property to address the public health threat by removing debris. The eligible applicant may request prior approval from FEMA for the reimbursement of private property debris removal conducted for a health and safety threat.

Statutory and Regulatory Authorities

Sections 403(a)(3)(A) and 407 of the Stafford Act, 42 U.S.C. 5170b and 5173, respectively, provide FEMA authority to fund an eligible applicant's debris removal from private property provided that the appropriate State or local government public health authority or other public entity that has legal authority determines that disaster-generated debris on private property in the designated area constitutes an immediate threat to life, public health, and safety; and that removal of the debris is in the public interest. The State or local government must also arrange an unconditional authorization for removal of the debris, and agrees to indemnify the Federal government against any claim arising from the removal. FEMA regulations at 44 CFR 206.224 define "public interest."

Any State or local government that intends to seek reimbursement to remove debris from private property within a designated area will, prior to commencement of work, submit a written request for reimbursement to, and receive approval from, the Federal Coordinating Officer (FCO). The FCO would identify an area(s) eligible for private property debris removal. The State and local government would identify specific properties for such debris removal.

The FCO makes a determination as to areas eligible for private property debris removal based on the Public Assistance applicant's showing of the following:

- 1) Public Interest (44 CFR 206.224)

Debris removal is in the public interest when it is necessary to:

- eliminate immediate threats to life, public health, and safety; or
- eliminate immediate threats of significant damage to improved public or private property; or
- ensure economic recovery of the affected community to the benefit of the community-at-large.

FEMA will work with states affected by a disaster to designate those areas where the debris is so widespread that removal of the debris from private property is in the “public interest” pursuant to 44 CFR 206.224, and thus is eligible for FEMA Public Assistance reimbursement. This determination is made on a case-by-case basis.

2) Documentation of Legal Responsibility (44 CFR 206.223(a)(3))

A detailed explanation documenting the requesting State or local government’s legal responsibility at the time of disaster to enter private property to remove debris in order to address immediate threats to public health and safety, and confirmation that all legal processes and unconditional authorization requirements (e.g., right-of-entry, including indemnification provisions) for such action have been satisfied.

3) No Duplication of Benefits

FEMA is prohibited by Section 312 of the Stafford Act 42 U.S.C. 5155, from providing assistance to an entity that may receive benefits from any other source. The local government is obligated as a condition of the grant to ensure that there will be no duplication of benefits, such as from insurance proceeds. The right-of-entry or other permit should include information about property insurance covering debris removal.

4) Eligible and Ineligible Debris

FEMA policy DAP 9523.13 Section VII.F elaborates on what debris is eligible and ineligible for removal from private property. Generally, commercial property is not considered eligible for debris removal. All FEMA policies can be found at www.fema.gov.

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“FEMA’s mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.”

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