FEMA Obtain and Maintain & the Insurance Commissioner’s Certification

As a condition of receiving FEMA Public Assistance (PA) funding, eligible applicants must obtain and maintain insurance coverage at least equal to eligible amounts for the hazard specified for a permanent facility receiving Federal assistance with eligible costs more than $5,000. This is often called the “O&M” requirement. It applies to buildings, contents, equipment and vehicles that are damaged by flood and non-flood hazards. The purpose of the O&M requirement is to protect against future loss. Prior to project approval, FEMA will notify Applicants of their initial insurance requirement for O&M. An applicant must evidence insurance compliance to FEMA at project approval and at grant closeout.

Applicants must insure facilities and their contents with the “types and extent” of insurance that is reasonably available, adequate, and necessary to protect against future loss to the property. “Types” refers to the hazard that caused the damage (ex. Flood or Non-flood) and “extent” refers to the amount of insurance required as determined by FEMA. If an Applicant has not obtained and maintained required insurance, FEMA will deny or de-obligate assistance in the current disaster and deny future assistance for that facility.

The ICC Process

Eligible Applicants that cannot reasonably obtain and maintain the required level of insurance coverage can apply for an Insurance Commissioner’s Certification (ICC). The insurance commissioner cannot waive Federal insurance requirements but may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility.

How does an ICC affect an Applicant now?

If awarded, an ICC applies only to the O&M requirements of the current declared event. FEMA will use the ICC to modify the applicant’s insurance requirement for the current disaster. For future PA eligibility, FEMA will not require greater amounts of insurance than certified as reasonably available, adequate, or necessary by the State insurance commissioner and as long as the Applicant continues to maintain at least that level of insurance coverage into the future. An applicant should maintain historical documentation for related O&M facilities and continue to insure these facilities in compliance with the ICC received for that disaster. When a new presidentially declared disaster occurs that affects the Applicant who has an ICC in place for prior disasters, an Applicant should apply for a new ICC for the new disaster. An ICC does not exempt an Applicant from procuring insurance coverage. Applicant must carry insurance to the extent that it is reasonably available.
Obtain and maintain insurance as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

Stafford Act, Section 311. Insurance
(42 U.S.C 5154)

O&M and the ICC

“the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner.”

Stafford Act, Section 311. Insurance (42 U.S.C 5154)

Stafford Act (Sec 206.252 & 206.253)

O&M insurance requirements:

- No O&M if eligible costs for an insurable facility do not exceed $5,000
- Flood O&M is based upon Federal eligible disaster assistance.
- Non-Flood O&M is based upon eligible damage incurred

When should an Applicant begin the ICC Application Process?

If an eligible PA Applicant is unable to meet its O&M requirement, then an ICC should be in place or in process before the next Presidentially declared disaster. If an Applicant is made aware of an O&M requirement, then the Applicant who is unable to meet its O&M requirements can apply for an ICC. The online application process begins July 2019. In the meantime, Applicants should review the required documentation checklists to begin data collection.

What are the Steps in the ICC Application Process?

The Applicant’s request for application is registered through the Commissioner’s online web portal. Once the Applicant’s account is set-up, the ICC Application process consists of several phases for review by the Commissioner’s office:

- Initial: The Applicant registers and provides required documentation.
- Level 1: The Application is reviewed for merit and eligibility.
- Level 2: The Application and any Appeal is reviewed for final consideration.
  - Level 3: The status of the Final Review of the Application is confirmed.
# ICC Application Documentation Checklist

Part 1: The Applicant must provide documentation related to its Insurance Program, particularly for any asset for which PA funding with a related O&M obligation is expected and its Operating Expenditures.

<table>
<thead>
<tr>
<th>Part 1: Insurance Program &amp; Financial Documentation</th>
<th>Current (In effect at the time of the Application)</th>
<th>Historical (In effect at the time of the Disaster and 3 Prior Years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Insurance Policy</strong> including related endorsements (or Binder)(^1)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>1.a) Insurer rating of “B+/VII” or a rating not less than “B++/V”, as of the most current edition of A.M. Best’s Key rating Guide.</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>1.b) Replacement Cost Policy Claim Payment Valuation Method for all coverages, excluding Automobile Physical Damage, particularly for any asset (e.g. building, contents, equipment) for which PA funding is expected.</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>2. <strong>Schedule of Values</strong> (must match the stated TIV on the policy; must indicate whether the schedule is replacement cost or actual cash value)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>a) Real Property: include building location address, name and description of use;</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>b) Equipment: include descriptor, location address, indoor/outdoor storage;</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>c) Vehicles (only if an O&amp;M applies for Physical Damage): include VIN and descriptor.</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>3. <strong>Audited Financial Statements</strong> (or, if not available, the proposed formal Budget) with clear indication of the operating budget expenditure totals and the Income Statement Line that would include the Insurance Premium expenditures.</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4. Evidence of insurance <strong>Marketing</strong> efforts by the broker including full replacement cost coverage (e.g. provide proposals that show full limits for replacement cost values for any damaged property that has an O&amp;M.)</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>5. <strong>Wind Risk Model Report</strong> for a 250-year hurricane (named storm) event and issued for the current Property policy renewal (or within the last two years for similar SOVs) for scheduled properties, to include any property that has an O&amp;M.(^2)</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>

---

\(^1\) Commercial policy “real property” coverages may include: property, boiler & machinery, inland marine, NFIP, excess flood, fine arts, and automobile physical damage. An applicant may provide an in-force binder in combination with a certificate of insurance in lieu of a full policy if the applicable policy has not yet been issued by the insurance carrier and is not available at the time of the application. However, the applicant shall provide the full policy within 6 months of the application submission.

\(^2\) If the Applicant would like for the ICC Reviewer to request this report directly from its Insurance carrier, the Applicant must submit a duly executed authorization for release of information as part of this Application process.
Part 2: The Applicant must provide documents for related FEMA Disaster O&M Requirements.

<table>
<thead>
<tr>
<th>Part 2: FEMA Disaster O&amp;M Documentation</th>
</tr>
</thead>
</table>
| 1. **PA Funding Expected Payment:** Indicate if currently insured with related Policy Number or the reason if uninsured.  
  a) Buildings/Contents: List of Specific Building with address/descriptor and the Hazard Type\(^3\), Asset Type\(^4\), Amount of Insurable Damage;  
  b) Equipment/Inland Marine Items: List of Specific Building where item is located with address/descriptor and the Hazard Type, Asset Type, Amount of Insurable Damage;  
  c) Vehicle (Physical Damage): List of specific vehicle VIN and descriptor, including the Hazard Type and Amount of Insurable Damage.  |
| 2. **Insurance Claim Statement**/Proof of Loss and Check Information: Include complete payout, schedule, and deductible applied calculations. |
| 3. List of **FEMA O&M Project Worksheets** with Type (Non-Flood or Flood) / Kind (Property, Contents, Equipment, Automobile, Marine Vessels, etc.) and Amounts with location address and location description or name, if available at the time of the ICC Application. |

As the current insurance market changes and as each Applicant’s budget and exposure changes, an Applicant should request a re-certification of its insurance program through the ‘Re-certification Request Process’

**Additional Information**

**ICC Application Process:** ICC Application portal opens July 2019. [Puerto Rico OCS ICC Information](#)

**FEMA O&M Listing:** For questions about the current status of your Organization’s PWs and O&M values for eligible disasters in Puerto Rico or to obtain the requested “FEMA O&M PW” list, please contact your designated FEMA representative:

Insurance Division  
PA Operations Support  
4339-DR-PR / 4336-DR-PR  
Region II - Federal Emergency Management Agency  
Email: [FEMA-DR-4339-PA-INSURANCE@FEMA.DHS.GOV](mailto:FEMA-DR-4339-PA-INSURANCE@FEMA.DHS.GOV)  

---

\(^3\) “Hazard Type” = wind, flood, earthquake, etc.  
\(^4\) “Asset Type” = building, business personal property, equipment, vehicle, valuable papers, etc.