MEMORANDUM NO. 2018-001

TO: All governmental entities, agencies, municipalities, or local units of government; private, non-profit entities (“eligible entities” or “subgrantee”)

FROM: Central Office for Reconstruction and Recovery of Puerto Rico

DATE: May 2, 2018

PURPOSE: To encourage all eligible entities to apply for FEMA Public Assistance grants and to be responsible and efficient during the FEMA Public Assistance process in order to obtain maximum recovery.

I. Introduction

Many public and non-public entities which are eligible for Public Assistance grants from the Federal Emergency Management Agency (“FEMA”) have not yet applied for assistance. Some eligible entities may not understand: (1) whether they are eligible; (2) how to initiate the process; and (3) what the entity is required to do to get the grant. This Memorandum contains a brief introduction to the FEMA Public Assistance process, and the duties and responsibilities of the public and non-public entities (subgrantees) as well as those as of the Governor’s Authorized Representative (“GAR”).

II. Legal Basis

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended¹, and its implementing regulations establish the process for Federal assistance following a presidential declaration of disaster, placing a significant level of responsibility on the Governor of the declared State regarding the implementation of the grant programs and the effective management of funding and program processes. The regulations under 44 CFR Part 206 recognize that in order to effectively meet the imposed responsibility, the Governor will need to appoint a representative to act on his behalf, referred to under 44 CFR 206.2 as the GAR. Specifically, this provision defines the GAR as “the person authorized by the Governor to execute on behalf of the State all necessary documents for disaster assistance. Further, 44 CFR 206.41(d)

specifically states that the GAR “shall administer the Federal disaster assistance programs on behalf of the State and local governments and other grant and loan recipients”. The GAR is responsible for State compliance with the FEMA-State agreement, which is the main contract between the State and FEMA setting forth the terms and conditions of the grant programs implemented under the Stafford Act.

In the aftermath of the unprecedented disaster caused by hurricanes Irma and Maria, Governor Ricardo Rosselló Nevares issued Executive Order 2017-65, as amended (“Executive Order”). The Executive Order authorized and ordered the creation of the Central Office of Recovery and Reconstruction of Puerto Rico, also known as the Central Office for Recovery, Reconstruction and Resiliency (“COR3”), as a division within the Public-Private Partnerships Authority. COR3 has the purpose of: (i) identifying, procuring and administering all Federal, State and/or private resources available to governmental entities to invest in the Island’s recovery; (ii) coordinating and channeling all the efforts and activities of the governmental entities related to recovery; (iii) financing, executing or effecting infrastructure works and projects related to recovery; and (iv) advising the Governor of Puerto Rico and providing assistance and technical advice to the other governmental entities in all matters related to recovery. The Executive Order further provides, among other things, that COR3 shall develop and implement robust ethics and compliance and audit programs that guarantee the independence of said functions and their personnel, and that it will carry out its purposes, in such a way as to guarantee the efficient and effective use of the available resources and to minimize the duplication of recovery work among the governmental entities. On February 5, 2018 Governor Rosselló named the Director of COR3 as GAR for the disaster declarations related to Hurricanes Irma (DR-4336) and Maria (DR-4339). Thereafter, on March 20, 2018 Governor Rosselló issued Executive Order 2018-11 which consolidated the Office of the GAR with COR3, and designated COR3 as the grantee in the FEMA-State Agreements for DR-4336 y DR-4339.

III. Discussion

A. FEMA’s Public Assistance Program

FEMA’s Public Assistance (“PA”) Program provides assistance to State, Territorial, Indian Tribal, and local governments, and certain types of Private Non-Profit (“PNP”) organizations so that communities can quickly respond to and recover from major disasters or emergencies declared by the President of the United States. Through the PA Program, FEMA provides supplemental Federal disaster grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and the facilities of certain PNP organizations. The PA Program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures.²

² FEMA Public Assistance and Policy Guide 3.0 (2018) at https://www.fema.gov/media-library-data/1515614675577-be7fd5e0eac814441e313882924ec0a/PAPPG_V3_508_FINAL.pdf
B. Governor’s Authorized Representative

At the State level, the GAR, supported by COR3, shares information with eligible entities and FEMA regional representatives to bring the necessary response and recovery resources regarding the incident. The GAR provides executive oversight and direction of the disaster or emergency response and recovery on behalf of the Governor of Puerto Rico and executes all the necessary documents on behalf of the State. Among other things, it also helps potential applicants to develop complete applications, and provides said applicants with technical assistance. Direct and constant communication between applicants and the GAR is essential in order to ensure maximum recovery. GAR’s support personnel at COR3 can aide all eligible entities in the identification of damages and the proper formulation of the Project Worksheets. Each eligible entity shall have a GAR liaison assigned by COR3 to assist in the aforementioned process. Please contact Migdalia Bonilla, State Public Assistance Officer, mbonilla@gar.pr.gov, in order to procure contact with your liaison.

C. Eligible Applicants

The following types of local governments are eligible to apply for FEMA PA assistance:

- Counties and parishes
- Municipalities, cities, towns, boroughs, and townships
- Local public authorities
- School districts
- Intrastate districts
- Councils of governments (regardless of whether incorporated as nonprofit corporations under State law)
- Regional and interstate government entities
- Agencies or instrumentalities of local governments
- State-recognized Tribes
- Special districts established under State law

In addition, certain private, non-profit entities are eligible for FEMA PA grants if they provide a critical service, which is defined as education, utility, emergency, or medical, or if they provide a non-critical, but essential governmental service AND are open to the general public. Non-critical, essential entities may include, but are not limited to: parochial primary and secondary schools; higher education schools; medical clinics; hospices; nursing homes; emergency services; utilities; community centers; day care centers; adult day care centers; libraries; museums; performing arts centers; zoos; senior citizen centers; shelters for domestic abuse victims; health and safety services; low income housing; food assistance programs; and homeless shelters. This is not a complete list of all organizations which may be eligible. We encourage each eligible

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3 Stafford Act § 102(8), 42 U.S.C. § 5122; 44 CFR §§ 206.2(a)(16) and 206.222(a); and 2 CFR § 200.64.

4 44 CFR § 206.221(e)(7).
applicant to consult the FEMA Public Assistance and Policy Guide\(^5\) to confirm your eligibility. If you need assistance to determine your eligibility, please contact Migdalia Bonilla, State Public Assistance Officer, mbonilla@gar.pr.gov, for clarification.

As of today, all eligible applicants should have applied for FEMA PA grants. The entity seeking the FEMA PA grant must have submitted a Request for Public Assistance (“RPA”).\(^6\) Neither the Government of Puerto Rico, the GAR, COR3, the United States government nor FEMA will allot money to any entity which does not apply for a FEMA PA grant. Evidence of the RPA must be submitted to our office. In addition, for those entities who have already held their respective kickoff meetings, please contact Migdalia Bonilla, State Public Assistance Officer, mbonilla@gar.pr.gov, in order to inform the date of the same, inasmuch as all applicable FEMA deadlines start to run from the date of the kickoff meeting. If you have any questions about submission of the Request for Assistance, call our office at 787-273-8209.

**D. Eligible applicant / subgrantee responsibilities**

It is the responsibility of the eligible entity seeking the PA grant to provide certain documentation to FEMA regarding such issues as eligibility; disaster-related costs such as overtime and debris removal; and the cost of rebuilding damaged facilities. More information about the specific kinds of documentation required may be found in the FEMA Public Assistance and Policy Guide.\(^7\) The eligible entity / subgrantee is responsible for:

- Identifying its damages to COR3 and FEMA;
- Attending the Applicants’ Briefing to learn about the necessary paperwork to apply for Federal Assistance and documentation required for the Project Worksheet process;
- Providing documentation and personnel to work with FEMA and COR3 in the damage assessment and project application processes;
- Providing information to COR3 through the Tempest-Gems platform;
- Completing its recovery actions;
- Is accountable to COR3 for the use of the funds provided by FEMA.

\(^5\)FEMA Public Assistance and Policy Guide 3.0 (2018) at https://www.fema.gov/media-library-data/1515614675577-be7fd5e0cae814441c313882924c5c0a/PAPPG_V3_508_FINAL.pdf

\(^6\)https://www.fema.gov/media-library-data/1505397829631-758807d2f22ea320a71a74ade429675d/FEMA_Form_009-0-49_RPA_508_FINAL.pdf

\(^7\)FEMA Public Assistance and Policy Guide 3.0 (2018) at https://www.fema.gov/media-library-data/1515614675577-be7fd5e0cae814441c313882924c5c0a/PAPPG_V3_508_FINAL.pdf
E. Administrative Costs

FEMA acknowledges that the PA grant process can be complex. Accordingly, FEMA will reimburse eligible entities for the cost of retaining professionals to assist with the management, administration, and documentation required by FEMA. Such professionals include, but are not limited to, engineers, public insurance adjusters, estimators, accountants, lawyers and other experts who can assist eligible entities in meeting their obligations under the FEMA grant process. FEMA’s guidelines for the reimbursement of Direct Administrative Costs may be found in the FEMA Public Assistance and Policy Guide. We encourage all eligible entities to procure external assistance should their internal resources lack the knowledge and experience for these tasks. Time is of the essence and the maximum recovery of funds in the most efficient and cost effective means should be everyone’s goal.

F. Critical Deadlines

On February 14, 2018, FEMA granted the GAR’s request for extension of time limits for the subgrantees to identify and report the damages. Pursuant to the same, the new deadline is 180 days from the respective applicants’ kickoff meeting. The 180-day deadline needs to be treated with a sense of urgency by all Public Assistance applicants. Therefore, if the kickoff meeting has already been held, it is essential that the Public Assistance Coordinator (PAC) assigned to your entity be contacted in order to document the damages, determine eligible repair work, estimate costs, develop work projects, and identify issues, which may require special attention. The earlier the aforementioned tasks are performed and/or identified, the sooner public assistance funding can be made available.

COR3 will be issuing additional Memoranda regarding the grant process as well as applicable subsequent deadlines and other relevant information. Should you have any questions or would like to discuss this matter further, please feel free to contact Mr. Manuel Bermúdez at mbermudez@cor3.pr.gov, or Ms. Margarita Mosquera at mmosquera@cor3.pr.gov.