
STAFFORD ACT

Insurance Commissioner's Certification PROCESS

ICC



PURPOSE OF THIS PUBLICATION

To raise **awareness** and to serve as a job aid so users better understand **when** and **how** to apply for an *Insurance Commissioner's Certification (ICC)*.

INTENDED AUDIENCE

For any Subrecipient (Applicant) or entity that has received, or might receive, **Federal Emergency Management Agency (FEMA) Public Assistance (PA) funds**; State, Parish, city or other local government officials, including elected leadership, chief administrative officers (CAOs), chief financial officers (CFOs), risk managers and insurance professionals; private nonprofits (PNPs) that have received or might receive FEMA PA funds; and other disaster recovery stakeholders.

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What YOU need to know NOW!

Dear Louisiana Disaster Recovery Stakeholder,

As a **condition** of receiving FEMA Public Assistance (PA) funding, Subrecipient (Applicant) must **obtain** and **maintain** insurance coverage, often called the O + M requirement, **at least equal to the amount of the eligible damage** to the facility receiving Federal assistance.

The purpose of the O + M requirement is to **protect against future loss** from the same type of peril.

INSURANCE COMMISSIONER'S CERTIFICATION (ICC)

Sometimes insurance market conditions prevent your ability to **reasonably** meet the O + M requirement. The *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) then allows you to apply for an *Insurance Commissioner's Certification* (ICC). **The ICC acts as a declaration that some portion of the O + M requirement is not reasonably available** to a FEMA PA Subrecipient (Applicant). It may be the best way to ensure your *continued* eligibility for FEMA PA funding if you incur damage to insurable assets in a **subsequent disaster**.

The **Louisiana Commissioner of Insurance**, working with the **Governor's Office of Homeland Security and Emergency Preparedness** (GOHSEP), has established **criteria** you must meet to be eligible for an ICC. **This brochure is designed to help you understand the criteria and the process when applying for an ICC.**

Check with your risk manager and/or insurance professionals to see if an ICC is right for you. If you believe you qualify for an ICC, you must submit your application and **required** documentation to GOHSEP.

If the insurance required by the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) is **not reasonably available**, the Subrecipient (Applicant) must demonstrate compliance with the Insurance Commissioner's established **criteria and follow the Insurance Commissioner's Certification process.**

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Why an ICC may be needed

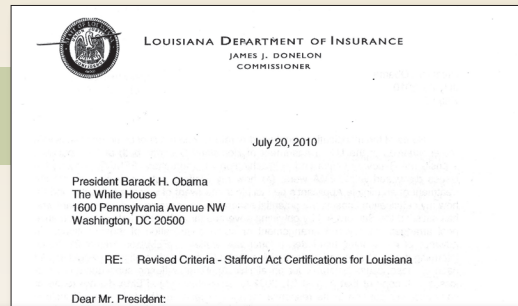
- An Subrecipient (Applicant) who has not *obtained* and *maintained* required insurance (for the full amount of FEMA PA eligible damages) in a **current disaster** is at risk for **de-obligation of that funding**.
- **Eligibility for future FEMA PA funding** requires Subrecipients (Applicants) to *obtain* and *maintain* insurance for **each damaged facility** (in at least the amount of *previously* eligible damages) that has received FEMA PA funding in a *prior* disaster of the same type.
- An Subrecipient (Applicant) that cannot **reasonably** obtain and *maintain* the required level of insurance coverage can apply for an ICC. For future PA eligibility, FEMA does not require greater amounts of insurance than certified as reasonable by the State Insurance Commissioner.
- Facilities that sustained **eligible damages less than \$5,000** do not have an O + M requirement.

How it works

An ICC **applies only** to the O + M requirements applicable to the **storm** or **hazard specified** in the application.

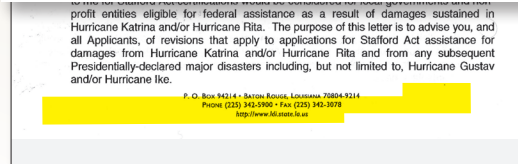
Once an Subrecipient (Applicant) **provides evidence** that the **type** and **extent** of insurance required by the **FEMA PA Program** is **not reasonably available**, the Insurance Commissioner can issue an ICC. It's important to know:

- If granted an ICC, an Subrecipient (Applicant) must maintain **insurance coverage consistent with that in place at the time of the initial certification**.
- Should another major disaster strike, resulting in the Subrecipient's (Applicant's) need for additional Stafford Act assistance, a **new application** for a certification applicable to that disaster is required.



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

“... I hereby certify that commercial insurance coverage for the perils of flood and wind is not reasonably available to Applicants in order to procure property insurance coverage for the full amount of their eligible disaster assistance ...”



Roles + responsibilities

SUBRECIPIENT (APPLICANT)

You are responsible for **risk management**.

It is important to know that **private insurance** is the first source of help after a disaster. FEMA PA (and other Federal support) is supplemental in nature and available when communities are overwhelmed by a disaster and after insurance benefits and other local or State resources have been exhausted.

INSURANCE COMMISSIONER

The Louisiana Commissioner of Insurance is charged with determining whether required O + M insurance is **reasonably available**. Stafford Act Section 311 states, “... the President shall not require greater types and extent of insurance than are certified ... as **reasonable** by the appropriate State Insurance Commissioner.” The Louisiana Commissioner of Insurance issued a *Letter to the President* July 20, 2010 certifying that certain types and amounts of insurance were not **reasonably available** to Louisiana FEMA PA Subrecipients (Applicants).

Blanket policies

Subrecipients (Applicants) utilizing **blanket** or **scheduled policies**, **pooling arrangements** and **layered programs** should also consider an ICC.

Increased deductibles

In a post-disaster insurance market, insurance carriers attempt to protect themselves from future losses of the same type. One of the methods they use is to **increase deductibles**. This results in a significant increase in out-of-pocket cost to the Subrecipient (Applicant) in the event of future damage. The Insurance Commissioner stipulates that the **deductible cannot exceed 15% of property insurance coverage** and **cannot be combined with business interruption insurance coverage**.

Not a guarantee . . .

Demonstrating you have met the criteria set by the Insurance Commissioner and followed the process is not a guarantee that an ICC will be granted. If granted, **an ICC does not exempt a Subrecipient (Applicant) from procuring insurance coverage. You still must carry insurance to the extent that it is reasonably available to you.**

REMEMBER:

- FEMA PA is **supplemental**. It does not replace other assistance (including insurance).
- FEMA PA grants are only provided for **Presidentially declared disasters**.

ESTABLISH
MINIMUM
BUDGET



PROCUREMENT

REQUEST



DOCUMENTATION
REVIEW



INSURANCE COMMISSIONER'S
DECISION



Certification criteria

The ICC process requires that you spend what the Insurance Commissioner has determined is a minimum amount on appropriate insurance coverage based on the **type of entity you are**.

GOHSEP has worked closely with the Insurance Commissioner to **develop a process** allowing Subrecipient (Applicant) to pursue an ICC when **full O + M requirements cannot reasonably be met**.

The Subrecipient (Applicant) must **demonstrate compliance** with the criteria set by the Insurance Commissioner and follow the Commissioner's **certification process** to be considered for an ICC.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

- To be considered for an ICC, an Subrecipient (Applicant) must **obtain and maintain** the **maximum amount** of insurance **available** through the **National Flood Insurance Program (NFIP)** for:
 - Building and contents** for **every facility** that sustained flood damage as a result of the disaster.

MINIMUM INSURANCE BUDGET

- An Subrecipient (Applicant) must allocate a **reasonable portion of its current annual operating budget** to the purchase of **property insurance**, including **wind and flood**, for each of its properties that are the subject of FEMA PA grants.

- The required yearly minimum insurance budget is expressed as a **percent of annual operating budget**.

- The percent is defined specifically for **different entities**.

- The schedule** established by the Insurance Commissioner for Subrecipient (Applicant) to use in determining a minimum insurance budget is shown in the table below.

- When calculating a minimum insurance budget . . .
 - DO base it on your **prior year's audited financial statement**.
 - Do NOT include **capital outlays**.

INSURANCE PROCUREMENT GUIDELINES

- An Subrecipient (Applicant) must also follow **guidelines** defined by the Insurance Commissioner for the **type of insurance** procured:
 - Obtain and maintain **NFIP** coverage.
 - Procure **property** coverage (including wind and other perils, exclusive of flood) up to **replacement costs**.
 - With **remaining funds**, procure excess flood coverage.

NOTE: Cost of business interruption insurance is separate and cannot be used to meet your percent of budget requirement.

TABLE: Minimum budget for insurance expressed as a percentage of annual operating budget

Organization type	Percentage of operating budget
Local Government	0.33%
Elementary and Secondary Education	0.29%
Post-Secondary Education	0.17%
Health Care	0.26%
Nonprofit Association	2.91%
Nonprofit Trust	1.41%
Nonprofit Religious	2.61%

Please note that this is a minimum percentage schedule for the purpose of determining a reasonable insurance budget. It cannot be used as rationale to reduce insurance if the current expenditure exceeds the listed percentage amounts.

Contact your risk manager or insurance professional if you think an ICC might be right for you.

If you have questions regarding an ICC, please contact:



Governor's Office of Homeland Security and
Emergency Preparedness (GOHSEP) Insurance Team

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Louisiana Department of Insurance (LDI)



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Visit LouisianaPA.com for an ICC application.



getagameplan.org



This public document is published by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), State of Louisiana. **One Thousand (1,000)** copies of this public document were published in this **5th printing** at a cost of **\$945.33**. The total cost of all printings of this document, including reprints is **\$6,814.38**. This document was published for the purpose of providing public information and education. This material was printed in accordance with standards for printing by State agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes. This document was prepared under a grant from the United States Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA) Public Assistance Grant Program, Catalogue of Federal Domestic Assistance, (CFDA) number 97.039, and Public Assistance (PA) Program, CFDA 97.036. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of DHS or FEMA.

The following is a **summary of steps** involved in the *Insurance Commissioner's Certification (ICC)* review process. Additional actions may be necessary by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), the Louisiana Department of Insurance (LDI) or Subrecipients (Applicants).

5 STEPS . . .

Insurance Commissioner's Certification (ICC) Application Process

1

Subrecipient (Applicant) **notifies** the **Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)** that because of the insurance market it merits consideration for an ICC.

2

GOHSEP **sends an application packet** to the Subrecipient (Applicant).

3

Subrecipient (Applicant) returns completed application to GOHSEP.

- GOHSEP **inventories** required documentation for completeness (requesting additional documentation if necessary).
- GOHSEP reviews application packet to:
 - Verify that figures supplied by the Subrecipient (Applicant) on the ICC application form are supported by documentation supplied by the Subrecipient (Applicant); and
 - Make the threshold determination that the Subrecipient (Applicant) is a **candidate for consideration of an ICC**, i.e., that the amount of the obtain and maintain (O + M) requirement (at the time of the application) exceeds the **applicable** amount of insurance that the Subrecipient (Applicant) has been able to procure based on the pre-determined percentage of its current operating budget.

4

GOHSEP **forwards packet** to **Louisiana Department of Insurance (LDI)** for consideration.

- LDI staff **reviews packet**; requests clarifications and additional documentation if needed to make a decision.
- GOHSEP assists the Subrecipient (Applicant) in addressing LDI requests for **additional information** or **documentation**.

5

LDI makes final determination.

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Insurance Commissioner's Certification (ICC) Application Required Documentation Checklist

- Subrecipient's (Applicant's) prior year, **audited financial statement** OR **current operating budget**.
- Copies of all **current property** and **flood** insurance policies (including National Flood Insurance Program [NFIP]).
- At the time of the **most recent disaster loss**, copies of **Declaration Pages** and **Schedules of Values** for all **property** and **flood** insurance policies (including NFIP).
- For **previous disaster losses**, copies of **Declaration Pages** for all **property** and **flood** insurance policies (including NFIP).
- Copies of **insurance quotes** and **declarations** obtained for current policy period.
- FEMA PA Insurance Requirement Report** (also known as the Obtain + Maintain [O + M] spreadsheet).
- List of all **previously damaged facilities** that received FEMA PA funding, including *Project Worksheet* (PW) numbers.

