STAFFORD ACT
Insurance Commissioner’s Certification PROCESS
ICC

ensure to insure

Insurance Commissioner’s Certification
Dear Louisiana Disaster Recovery Stakeholder,

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

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 Public Assistance (PA) 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 Applicant must demonstrate compliance with the Insurance Commissioner’s established criteria and follow the Insurance Commissioner’s Certification process.
Why an Insurance Commissioner’s Certification (ICC) may be needed

- **An Applicant** who has not obtained and maintained required insurance (for the full amount of FEMA Public Assistance (PA) eligible damages) in a current disaster is at risk for de-obligation of that funding.
- **Eligibility for future FEMA PA funding** requires 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 Applicant** that cannot reasonably obtain and maintain the required level of insurance coverage can apply for an Insurance Commissioner’s Certification (ICC). For future PA eligibility, FEMA will 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 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 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 Applicant’s need for additional Stafford Act assistance, a new application for a certification applicable to that disaster is required.

Roles and responsibilities

**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 Public Assistance (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 to him 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 Applicants.
Blanket policies . . .

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 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 an Applicant from procuring insurance coverage. You still must carry insurance to the extent that it is reasonably available to you.
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.

The Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) has worked closely with the Insurance Commissioner to develop a process allowing Applicants to pursue an ICC when full O & M requirements cannot reasonably be met.

The 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 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 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 Applicants 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 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.

### Certification criteria table

<table>
<thead>
<tr>
<th>Organization type</th>
<th>Percentage of operating budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>0.33%</td>
</tr>
<tr>
<td>Elementary and Secondary Education</td>
<td>0.29%</td>
</tr>
<tr>
<td>Post-Secondary Education</td>
<td>0.17%</td>
</tr>
<tr>
<td>Health Care</td>
<td>0.26%</td>
</tr>
<tr>
<td>Nonprofit Association</td>
<td>2.91%</td>
</tr>
<tr>
<td>Nonprofit Trust</td>
<td>1.41%</td>
</tr>
<tr>
<td>Nonprofit Religious</td>
<td>2.61%</td>
</tr>
</tbody>
</table>

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 Insurance Commissioner’s Certification (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**

Nathan Dronette  
225-339-3705  
nathan.dronette@la.gov  
OR  
John Gonzales  
225-379-4028  
john.gonzales@la.gov

**Louisiana Department of Insurance (LDI)**

Ben Moss  
225-342-5423  
bmoss@ldi.la.gov  
OR  
Ed O’Brien  
225-342-5203  
eobrien@ldi.la.gov

Visit LouisianaPA.com for an ICC application.