

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 2180, MSC 7818, Bethesda, MD 20892, (301) 435-1850, dowellr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Coping With Cancer.

Date: July 9, 2003.

Time: 6:30 p.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Claire E Gutkin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, (301) 594-3139.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Proteomics Glycomics Resource Review.

Date: July 9-11, 2003.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, (301) 435-1217, byrnesn@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03-15717 Filed 6-20-03; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiovascular and Renal Study Section, June 23, 2003, 8 a.m. to June 25, 2003, 1 p.m., Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD, 20814 which was published in the **Federal Register** on June 9, 2003, 68 FR 34406-34408.

The meeting will be held at the Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD, 20815. The meeting date and time remains the same. The meeting is closed to the public.

Dated: June 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03-15718 Filed 6-20-03; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Private Nonprofit Facility (PNP) Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: We give notice of our reinterpretation of section 102(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and of our regulations at 44 CFR 206.221(e) and as a result the change in our policy concerning private nonprofit facilities.

DATES: Effective date: June 23, 2003. Applicability date: This applies to all disasters declared on or after January 20, 2001.

FOR FURTHER INFORMATION CONTACT:

James A. Walke, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-2751, or email James.Walke@dhs.gov.

SUPPLEMENTARY INFORMATION: In response to the September 11, 2001, terrorist attacks, we have been working to expeditiously provide assistance to as many disaster victims as possible. In order to do so, we have looked at our authorities and determined that in some cases, our interpretation of those authorities has been too restrictive. We give notice of our reinterpretation of the authority regarding eligibility of private nonprofit facilities in section 102(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5122(9) and of our regulations at 44 CFR 206.221(e).

The definition of "private nonprofit facility" (PNP) in the Stafford Act is a "private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President." We have interpreted that provision to mean all private nonprofit

facilities must be open to the general public.

1. The following change to the PNP definition is effective immediately and applies to all disasters declared on or after January 20, 2001. This affects eligibility for the Public Assistance Program, as well as for the Hazard Mitigation Grant Program (HMGP) (see 206.434(a)(2).) Only those private nonprofit facilities that do not meet the definition in 44 CFR 206.221 of an educational, utility, emergency, medical, or temporary or permanent custodial care facility must be open to the general public. Since this policy is applicable retroactively, the normal application deadlines have been extended for Public Assistance. The Regions and States will take appropriate measures to identify and re-evaluate applicants who may have been denied assistance in disasters declared on or after January 20, 2001. For HMGP, the States may amend their applications until December 31, 2003, with respect only to PNP applicants who are now eligible because of the revised policy and were PNPs at time of declaration, and only for major disaster declarations where HMGP funds are available. The following is FEMA's policy on Private Nonprofit Facility (PNP) Eligibility.

2. *Response and Recovery Directorate Policy Number:* 9521.3.

3. *Title:* Private Nonprofit Facility (PNP) Eligibility.

4. *Purpose:* This policy provides guidance in determining the eligibility of private nonprofit (PNP) organizations and facilities not specifically identified in 44 CFR 206.221.

5. *Scope and Audience:* This policy is applicable to all major disasters and emergencies declared on or after January 20, 2001. It is intended for Federal Emergency Management Agency (FEMA) personnel involved in making eligibility determinations for the Public Assistance Program.

6. *Background:* The guidelines for eligibility of PNP organizations and facilities have been refined over the past several years as eligibility issues have surfaced. The regulatory definition of a PNP organization and facility can be found in 44 CFR 206.221. However, PNP organizations offer so many types of services that it is still necessary to provide this additional policy guidance regarding organizations and services listed in the regulations and in the preamble of the final rule of September 14, 1993. The terms, "purposes," "activities," "uses," and "services" as used in this policy are derived from the governing statute, regulations and customary usage and may overlap. In the past, all PNPs had to be open to the

general public. However, a careful reading of legislative authorities makes clear that in 1988, in amending the Disaster Relief Act of 1974, Congress did intend that facilities within the category of "other private nonprofit facilities which provide essential services of a governmental nature" (as defined in § 206.221(e)(7)) must be open to the general public. Furthermore, with passage of the Disaster Mitigation Act of 2000 Congress added "irrigation" facilities to the extent they provide water for essential services of a governmental nature to the general public. These changes have been incorporated into the existing policy, which is presented in its entirety below.

7. *Policy:* Guidance for determining the eligibility of PNP organizations and their facilities follows:

A. Applicants—Basic Statutory and Regulatory Requirements.

(1) The applicant must have a ruling letter from the U.S. Internal Revenue Service or satisfactory evidence from the State that it is a nonprofit organization doing business under State law.

(2) The applicant must meet requirements as listed in 44 CFR 206.221—44 CFR 206.226, including the need to own or operate an eligible facility and to be legally responsible for disaster-related repairs.

(3) The applicant must meet the requirements of the Civil Rights Act of 1964.

B. Facilities—Basic Statutory and Regulatory Requirements/Information.

(1) The facility, at a minimum, must meet the criteria outlined in 44 CFR 206.221(e).

(2) The facility must be *primarily used* for one of the services or facilities listed in 44 CFR 206.221(e).

(3) Certain types of facilities are not required to be open to the general public if they meet the definition of an educational, utility, emergency, medical, or custodial care facility (enumerated in § 206.221(e)(1), (2), (4), (5), (6)). Other types of private nonprofit facilities that provide certain essential government type services to the general public, which include PNP irrigation facilities (as defined in § 206.221(e)(3)) and facilities that provide "other essential government services" as defined in § 206.221(e)(7), and as listed in 4(g) below, must be open to the general public.

(4) *Eligible PNP Facilities.* The following generally are eligible for assistance, and may be subject to the requirements of paragraph F of this policy:

(a) Educational facilities (as defined in § 206.221(e)(1)),

(b) Utilities (as defined in § 206.221(e)(2)),

(c) Irrigation facilities (as defined in § 206.221(e)(3)),

(d) Emergency facilities (as defined in § 206.221(e)(4)),

(e) Medical facilities (as defined in § 206.221(e)(5) (which includes, rehabilitational facilities)),

(f) Custodial care facilities (as defined in § 206.221(e)(6)),

(g) Facilities that provide essential governmental services and which must be open to the general public (as defined in § 206.221(e)(7)), such as:

- (i) Museums,
- (ii) Zoos,
- (iii) Community centers,
- (iv) Libraries,
- (v) Homeless shelters,
- (vi) Senior citizen centers,
- (vii) Shelter workshops, and
- (viii) Health and safety services of a governmental nature, including, for example:

- Low-income housing (as defined by Federal, State or local law or regulation),
- Alcohol and drug treatment centers,
- Residences and other facilities offering programs for battered spouses,
- Animal control facilities directly related to public health and safety,
- Facilities offering food programs for the needy, and
- Daycare centers for children, or individuals with special needs (e.g., those with Alzheimer's disease, autism, muscular dystrophy, etc.)

(5) *Ineligible PNP Facilities.* Some PNP facilities that might have been assisted prior to 1993 are no longer eligible under the governing statutes and regulations. Examples include:

- (a) Recreation facilities,
- (b) Job counseling and training centers,
- (c) Facilities for advocacy groups not directly providing health services,
- (d) Public housing (other than low-income),
- (e) Cemeteries,
- (f) Performing arts facilities,
- (g) Parking garages,
- (h) Conference facilities,
- (i) Facilities maintained by property owners' associations such as roads and recreational facilities (except those facilities that could be classified as utilities or emergency facilities), and
- (j) Daycare centers for purposes other than those described in paragraph 4 above.

C. *Facility Eligibility Based on Primary Use.* Even though an organization that owns the facility is an eligible PNP, the facility itself must be primarily used for eligible services. Space is the primary consideration in

determining if a facility is eligible.¹ Where certain spaces are used both for eligible and ineligible purposes, eligibility is determined by looking at the time the facility is used for eligible versus ineligible services.

(1) A facility must have over 50% of its space dedicated to eligible uses in order for any of the facility to be eligible. Common space (lobbies, restrooms, utility closets, janitorial closets, elevators, stairs, parking, etc.) is not included in calculating the proportion of eligible use. A facility is assessed as an entire structure and not its individual parts such as a basement, floor or building wing.

(2) When space is not dedicated to specific activities, or is used for eligible and ineligible purposes, primary use is determined by the amount of time used for eligible services.

(3) Space dedicated to or primarily used for religious purposes is not eligible for Public Assistance Program assistance under the governing statutes and regulations.

(4) FEMA will consider damages to the entire facility, not just to the portion occupied by the eligible services. However, the assistance is in direct proportion to the percentage of space dedicated to eligible services. The balance of costs to repair damages or replace a facility will not be funded by FEMA.

(5) Contents that are the responsibility of an ineligible occupant are not eligible for reimbursement if damaged.

D. *Ownership.* There are instances when an eligible organization will use part of a facility for eligible services and lease the remaining portion for an ineligible service or use. In other situations an eligible organization may be a partial owner in a facility with an ineligible organization. The following guidelines are to be used in determining the eligible costs for such facilities.

(1) *Total Ownership by PNP.* A facility must have over 50% of its space dedicated to an eligible purpose/mission in order to be eligible.

(a) If the facility meets the 50% threshold, then the eligibility of the repairs is in direct proportion to the percentage of space dedicated to its eligible purpose/mission. In any event, the applicant must repair the entire building. Exceptions to repairing the entire building may be granted in unusual situations.

(b) A facility that does not meet the 50% space threshold is not an eligible PNP facility.

¹ PNP irrigation facilities used in delivering water for essential governmental services are exempt from this requirement.

(c) A section 406 Hazard Mitigation grant would be eligible at the same percentage as the repair. However, the applicant must mitigate the entire building if the applicant opts to request the pro-rated mitigation project funding.

(2) *Partial Ownership by PNP.*

Reimbursement depends upon the percentage of ownership, amount of space being occupied by the applicant and amount of space dedicated to eligible services. The grant assistance may fund work in any part of the facility; however, reimbursement is contingent upon the entire facility being repaired. Exceptions to repairing the entire building may be granted in unusual situations.

(a) The eligible applicant: (1) Must own more than 50% of the facility, and (2) must occupy and use for eligible services more than 50% of the facility's space at the time of the disaster. If the eligible space meets that threshold, funding is in direct proportion to the percentage of space dedicated to the eligible use.

(b) The percentage eligible cannot exceed the percentage represented by the space being occupied by the applicant. For example, if the applicant owns 70% of the building but only uses 60% for its eligible purposes, then the maximum eligible percentage is 60%.

(c) A section 406 Hazard Mitigation grant would be eligible at the same percentage as the repair. However, the applicant and/or other owners must mitigate the entire building if the pro-rated mitigation project funding is requested.

(d) Alternate project or improved project funding may be approved but reimbursement is based on the eligible funding of the original repairs. A section 406 Hazard Mitigation grant is not eligible for either of these funding options with the exception of an improved project that maintains the same facility for which the mitigation is approved.

(e) If a partnership agreement states the repair responsibilities of each partner, the eligible reimbursement will be based on the percentage of responsibility.

E. Defining "open to the general public." Being "open to the general public" and "providing services to the general public," are requirements for facilities that provide "other essential governmental services" (as defined in § 206.221(e)(7)), and for irrigation facilities (as defined in § 206.221(e)(3)) but are not requirements for facilities that meet the definition of an educational, utility, emergency, medical, or custodial care facility as defined in § 206.221(e)(1-2)-(4-6).

(1) A private nonprofit facility that provides "other essential governmental services" (defined in § 206.221(e)(7)) is likely to meet the "open to the general public" requirement if:

(a) It is open to the general public;
(b) Membership fees, if any, are nominal;

(c) Membership fees, if any, are waived in instances in which someone can show inability to pay the fee.

(2) A private nonprofit facility that provides "other essential governmental services" (defined in § 206.221(e)(7)) is not likely to meet the "open to the general public" requirement if:

(a) A membership fee is of such magnitude as to preclude access to the facility by a significant portion of the community.

(b) The membership fee clearly exceeds what would be considered an appropriate user fee based upon a reasonable assumed use of a facility.

(c) Membership is limited to a certain number of people in the community.

(d) Membership is limited to a defined group of individuals who have a financial interest in the facilities managed by the PNP (for example, a condominium association).

(e) Membership discriminates against certain discrete classes of people, or is limited to individuals from some geographic area that is more restrictive than the community from which the facility in question could normally be expected to draw users.

F. Requirement for Application to the Small Business Administration (SBA). PNP facilities potentially eligible for permanent work assistance that provide "non-critical services" must first apply for a disaster loan from the SBA before applying to FEMA for disaster assistance. "Non-critical" PNPs, however, may apply directly to FEMA for emergency work costs. "Non-critical services" include educational facilities as well as those facilities defined in § 206.221(e)(7). (Facilities providing "critical services" as defined in § 206.226(c)(1), including power, water, sewer and wastewater, communications, medical treatment, fire protection, emergency rescue, and nursing homes, may apply directly to FEMA for disaster assistance.) The SBA loan application process for these "non-critical" PNP facilities will result in one of three outcomes:

1. If the PNP is declined for an SBA loan, the PNP may then apply to FEMA for public assistance.

2. If the SBA loan fully covers eligible damages from the disaster event, then no assistance from FEMA is available.

3. If the maximum SBA loan for which the facility is eligible does not

fully cover eligible damages, the PNP may then apply to FEMA for the excess eligible damages.

Eligible PNPs are also required to apply to SBA for any 406 Hazard Mitigation costs.

G. Lease Agreements. An eligible applicant must be legally responsible for disaster-related repairs whether they own a facility or lease it. An eligible applicant that leases an asset of an otherwise ineligible applicant and uses it in a way that normally would qualify it for assistance may be eligible for assistance. The lease, pre-dating the disaster, must clearly specify that the eligible applicant is responsible for repair of *major* damage and not just maintenance or minor repairs.

H. Examples. Several examples are offered for clarification purposes in the attached Appendix A. In addition, RR Policy #9521.1, "Community Center Eligibility," and RR Policy #9521.2, "Private Nonprofit Museum Eligibility" should be reviewed as complementary policies and for more examples of partial eligible use.

8. Supersession:

A. RR Policy #9521.3, "Private Nonprofit (PNP) Facility Eligibility" dated April 25, 2000.

B. All other relevant provisions of other public assistance policy documents on this subject.

9. Authorities: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206, and 44 CFR part 206.

10. Originating Office: Recovery Division, Emergency Preparedness & Response Directorate.

11. Review Date: One year from date of publication.

APPENDIX A

Private Nonprofit Facility (PNP) Eligibility Case Examples

Below are examples of private nonprofit facilities that could be expected to request eligibility determinations. *See also:* "Community Center Eligibility", RR Policy 9521.1.

Parkland Hospital Medical Office Building

Parkland Hospital is an eligible PNP that owns a medical office building and leases a portion of it to doctors and laboratories that are providing for-profit services. The for-profit leases are 70% of the floor space excluding the common area floor space as defined in this policy.

Analysis: The building is *not* eligible because the eligible services were offered in less than 50% of the building space. If the for-profit leases had not exceeded the 50% threshold, the grant assistance would have been pro-rated based on the percentage of the building occupied by the eligible nonprofit services.

Springtown Recreation Center

The PNP Springtown Recreation Center claims that it provides eligible essential government services in addition to its recreation activities and should be eligible for assistance. The organization claims that its services now include day care for elderly adults, senior citizen center programs, programs for battered spouses, and shelter workshops. These programs are provided by the recreation center staff and offered five days a week. Recreation activities are limited to evenings and weekends. The entire center is used for the eligible services.

Analysis: The organization would not appear to be eligible based upon its name and presumed mission. A detailed examination is necessary to determine the eligibility of the organization and its facility based upon the eligible services provided. In cases where space is not dedicated to any specific activity, the amount of time dedicated to eligible purposes in such spaces will determine eligibility and the level of assistance. Therefore, even though the entire facility is used for eligible purposes, the level of FEMA assistance will be pro-rated based on the proportion of the total time it is used for eligible services.

Community Church School

The Community Church operates a State certified school offering first through eighth grades. The teaching curriculum includes math, science, English, history, physical education and religious doctrine. The school has an average attendance of 500 students. The church has constructed three education buildings that are used exclusively by the school. The church occasionally uses the education buildings for religious activities. The school occasionally uses the church, but that use is always substantially less than 50%.

Analysis: Look at the church and three education buildings separately. The three education buildings are eligible because: (a) The school meets FEMA requirements to be considered an eligible education institution; (b) the buildings generally are not used for ineligible purposes and their primary purpose is to serve the school; and (c) the few religious classes in the curriculum is not sufficient to influence the primary use for secular education. However, in the spaces used for eligible and ineligible purposes, the level of FEMA assistance will be based on the proportion of the total time that such spaces are used for eligible purposes. The church's primary use is an ineligible service under the governing statutes and regulations and its peripheral use by the school is not sufficient to establish its eligibility.

Southlake Hospital Parking Garage

The parking garage is owned by an eligible PNP hospital to support its nearby hospital facility. The ground floor that faces a busy public street is leased to retail businesses. The leased space occupies 15 percent of the total space of the garage.

Analysis: 44 CFR 206.221(e) authorizes assistance for administrative and support facilities essential to the operation of medical facilities and emergency facilities, which in this example includes Southlake Hospital's

parking garage. Since the hospital uses more than 50% of the parking garage, the facility is eligible based on primary use. The leased space does not make the garage ineligible because it only represents 15% of the total space in the facility. FEMA assistance would be pro-rated based on the percentage of space used for the eligible parking purpose. If the leased space had exceeded 50% of the facility space, the primary use of the facility would become ineligible. The parking garage is eligible only because of its association with the hospital.

Woodlands Homeowners' Association

The Woodlands Homeowners' Association is a PNP organization responsible for providing certain services for a two hundred home development. The Homeowners' Association's services are local neighborhood streets, water system, sewage system, fire station, medical clinic, neighborhood park, community center and a recreational lake and dam.

Analysis: The Homeowners' Association operates facilities that provide essential government services and therefore is an eligible PNP. The lake and dam, park and streets do not meet the definition of eligible facilities. The water and sewage systems meet the definition of a utility and are eligible for assistance. The fire station and medical clinic are eligible as emergency and medical facilities. The community center might be eligible if it is open to the general public outside the Homeowners' Association community and if it is established and primarily used as a gathering place for a variety of social, educational enrichment and community service activities (*i.e.*, meeting the requirements of RR Policy 9521.1).

Midwest Methodist University

The University is a private nonprofit education facility as defined in the Stafford Act, section 102. It is supported by the United Methodist Church organization and offers both secular and religious education. The State's Department of Education officially recognizes the University as a school of higher education offering courses such as history, math, English, science, theology, religious education and religious counseling. The University offers undergraduate and graduate degrees in all fields of study. The campus consists of a large number of buildings for education, administration and religious worship.

Analysis: Damaged buildings that are primarily used for secular courses normally found on university campuses are eligible. Buildings containing student and administrative services also are eligible because they support educational, emergency, or medical facilities (as outlined in 44 CFR 206.221). The damaged buildings with religious courses must be carefully reviewed for eligibility. If a damaged building is primarily used for religious worship or religious instruction, it is not eligible because a peripheral eligible service is not sufficient to establish the eligibility of a facility.

Dated: June 17, 2003.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response.

[FR Doc. 03-15781 Filed 6-20-03; 8:45 am]

BILLING CODE 6718-02-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4837-D-41]

Order of Succession for the Office of Administration

AGENCY: Office of the Assistant Secretary for Administration/Chief Information Officer, HUD.

ACTION: Notice of order of succession.

SUMMARY: In this notice, the Assistant Secretary for Administration/Chief Information Officer designates the Order of Succession for the Office of Administration. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Administration, published on August 22, 2000.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Nancy Brennan, Director, Management Operations Division, Office of Administration, Department of Housing and Urban Development, Room 2182, 451 Seventh Street, SW., Washington, DC 20410-3000, telephone (202) 708-1583. (This is not a toll-free number.) This number may be accessed through TTY by calling the toll-free Federal Information Relay Service number at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration/Chief Information Officer is issuing this Order of Succession of officials authorized to perform the duties and functions of the Office of the Assistant Secretary for Administration/Chief Information Officer, when by reason of absence, disability, or vacancy in the office, the Assistant Secretary for Administration/Chief Information Officer is not available to exercise the powers or perform the duties of the Office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998 (5 U.S.C. 3345-3349d). This publication supersedes the Order of Succession notice on August 22, 2000 (65 FR 51014).

Accordingly, the Assistant Secretary for Administration/Chief Information Officer designates the following Order of Succession: