



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 29, 2026

CBCA 8724-FEMA

In the Matter of THE CLIFFS COMMUNITY ASSOCIATION AT GLASSY, INC.

Melvin Hutson of The Cliffs Community Association at Glassy, Inc., Landrum, SC, counsel for Applicant.

Elizabeth Rice Polk, Office of the Adjutant General, South Carolina Emergency Management Division, West Columbia, SC, counsel for Grantee.

Andrew Bevacqua and John Ebersole, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC; and Emanuel Rier Soto, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Guaynabo, PR, counsel for Federal Emergency Management Agency.

Before the Arbitration Panel consisting of Board Judges **LESTER, VERGILIO** (presiding), and **SULLIVAN**.

SULLIVAN, Board Judge, writing for the Panel.

The Cliffs Community Association at Glassy, Inc. (CCAGI) sought to arbitrate the denial of public assistance funding by the Federal Emergency Management Agency (FEMA). FEMA found that CCAGI was not an eligible applicant. For the reasons that follow, we agree with FEMA's determination and deny the request for funds.

Background

In September 2024, following Hurricane Helene, the President declared a major disaster which authorized FEMA to obligate public assistance funds for efforts undertaken to address the effects of the disaster.

CCAGI is a nonprofit homeowners association in South Carolina. CCAGI requested public assistance funding for costs that it incurred to remove debris from community roads following the disaster. In support of its eligibility, CCAGI explained that it funds the operations of a fire station located in the community and that it cleared the road to the fire station just after the disaster to allow fire department personnel to depart the station. CCAGI also stated that many members of the public use community roads to access a church and graveyard located in the community as well as to travel to work at the community golf course.

FEMA denied funding, finding that CCAGI did not own or operate an eligible facility wherein an eligible service is provided. Request for Arbitration (RFA), Exhibit 3 at 3. CCAGI appealed this determination. In its appeal decision, FEMA noted that, although CCAGI had described its “contractual relationship with a local fire department to provide fire and medical emergency services to its population as needed, [CCAGI did] not show that it owns or operates the local fire facility.” RFA, Exhibit 6 at 3.

Discussion

To be an eligible private nonprofit (PNP) applicant for PA funding, a PNP must establish (1) its nonprofit status with a letter ruling from the Internal Revenue Service or similar state documentation; and (2) that it owns or operates an eligible facility. Public Assistance and Policy Guide (June 2020) (PAPPG) at 43. Eligible PNP facilities include those facilities that provide a critical service, defined as education, utility, emergency, or medical. *Id.* Absent establishing that it owns an eligible facility, the general rule is that “[p]roperty owner associations with facilities such as roads, bridges, and recreational facilities (except utilities or emergency facilities)” are ineligible. *Id.* at 47. It is undisputed that CCAGI is a nonprofit entity. The dispute focuses upon whether it owns or operates an eligible facility.

CCAGI does not contend that it owns the fire station within the community. Rather, CCAGI argues that it is an eligible PNP because it contracts with the local fire department to staff the fire station within the community and provide fire and emergency medical services to community residents. CCAGI asserts that it should be viewed as “operating” the fire station because, without its funding, the fire station would not exist. According to the contract between CCAGI and the fire department, the fire department is an independent contractor and not a partner of CCAGI. RFA, Exhibit 4 at 16. CCAGI does not dispute that the fire station’s employees are employees of the fire department. Nor does CCAGI assert that it is responsible for staffing decisions or training at the fire station. Without more, the panel cannot find that CCAGI “operates” the fire station.

Upon finding that CCAGI did not own or operate an eligible facility, FEMA defaulted to the general rule that roads maintained by property associations are not eligible for public assistance funding. CCAGI argues that it should qualify for funds pursuant to the provisions of the PAPPG that allow for debris removal on private property. RFA at 6 (citing PAPPG at 107). However, that policy requires that the public has “unrestricted access (no locks, gates, or guards) and frequently uses the private road.” PAPPG at 108-09. While CCAGI asserts that members of the public frequently use the road to visit the church or graveyard located in the community or to travel to jobs at the golf course, CCAGI also acknowledges that access to the community is through a main gate. Because it cannot meet the unrestricted access requirement, CCAGI would need demonstrate that the debris removal was in the public interest. That determination is made by a state or local “public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at large.” *Id.* at 108. CCAGI has not provided such a determination to the panel. Accordingly, CCAGI cannot qualify for recovery of its debris removal costs pursuant to this provision.¹

Finally, CCAGI asserts that it is eligible to receive public assistance funds for debris removal pursuant to 44 CFR 206.224 (2024). However, funds cannot be paid to CCAGI, a private organization, pursuant to this provision:

Assistance to individuals and private organizations. No assistance will be provided directly to an individual or private organization, or to an eligible applicant for reimbursement of an individual or private organization, for the cost of removing debris from their own property. Exceptions to this are those private nonprofit organizations operating eligible facilities.

Id. 206.224(c). As discussed above, CCAGI does not own or operate an eligible facility.

¹ There is another policy provision that deems efforts undertaken to establish emergency access to private communities as eligible work. PAPPG at 115. It appears that the local fire department sought funds pursuant to this provision for the work it did to reestablish access to the community fire station and other locations. FEMA Response, Exhibit 4 at 1. However, one of the requirements is that an applicant must submit rights-of-entry and indemnification agreements with its application for funds under this emergency access provision. *Id.* It appears that CCAGI did not pursue funds pursuant to this policy provision.

Decision

The public assistance request is denied.

Marian E. Sullivan

MARIAN E. SULLIVAN

Board Judge

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.

Board Judge

Joseph A. Vergilio

JOSEPH A. VERGILIO

Board Judge