

ELIGIBILITY DETERMINATION MEMORANDUM

Project Veritas

FEMA-4615-DR-NY

PA ID 119-UGNSR-00

Applicant Type		<input type="checkbox"/> State Agency	<input type="checkbox"/> Local Government	<input type="checkbox"/> Tribe	<input checked="" type="checkbox"/> Private Nonprofit
Grants Manager: <i>Only fill out this section if the project is in Grants Manager.</i>			EMMIE: <i>Only fill out this section if the project worksheet is in EMMIE.</i>		
Project No.			EMMIE Project Worksheet No.		
Version No.			Version No.		
Damage Inventory No.			EMMIE Project Cost		
			Total Amount Obligated		
Project Title:					
Project Size			Category of Work		
<input type="checkbox"/> Large <input type="checkbox"/> Small (<i>Potentially subject to Net Small Project Overrun appeal</i>)					
Issue:					
Amount at Issue	\$0	Eligibility Issue Type	<input checked="" type="checkbox"/> Applicant Eligibility		
Amount Denied	\$0		<input type="checkbox"/> Facility Eligibility <input type="checkbox"/> Work Eligibility <input type="checkbox"/> Cost Eligibility		
Issue Keyword	Request for Public Assistance; Private Nonprofit				

Project Description:

On September 1, 2021, Hurricane Ida caused extensive damage throughout the state of New York. On September 5, 2021, the President declared a major disaster under FEMA-4615-DR-NY. This disaster declaration authorized Public Assistance (PA) for multiple counties within New York state.

As a result of the disaster, Project Veritas submitted a Request for Public Assistance (RPA) on September 27, 2021, to seek funding under the Federal Emergency Management Agency’s (FEMA) Public Assistance (PA) program.

Project Veritas provided documentation stating it is a private nonprofit (PNP) corporation with a 501(c)(3) Internal Revenue Service (IRS) tax-exempt status. Project Veritas was organized for charitable, religious, educational, and scientific purposes, including the purpose of “[...] *investigating and exposing corruption at all levels and other misconduct in order to achieve a more ethical and transparent society*”.¹

¹ See PNP Questionnaire, Articles of Incorporation and website: <https://www.projectveritas.com/>

On December 10, 2021, the Applicant responded via email to a Request for Information (RFI), where it states: “As an entity educating and informing the public through nonpartisan investigative journalism, the explicit categories of eligible services Project Veritas provides at their facility are “Educational enrichment activities that are not vocational” and “social activities to pursue items of mutual interest or concern”.

Issue:

Is Project Veritas an eligible applicant under FEMA’s PA program?

Applicable Statutes, Regulations, and Policies in Effect as of the Declaration of the Emergency or Disaster:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act), 42 U.S.C. § 5121 et seq. (2019):

Stafford Act §102

- Title 44 of the Code of Federal Regulations (C.F.R.) (2019):

44 C.F.R. § 206.221(e), (f)

44 C.F.R. § 206.222

- FEMA Policy:

Public Assistance Program and Policy Guide (PAPPG), FP 104-009-2, V4 (Jun. 2020).

PAPPG, at 42-47.

Analysis:

Eligible applicants for PA are defined in Stafford Act § 102, 44 C.F.R. § 206.222, and *PAPPG*, at 42-44. The following entities are eligible to apply for PA:

- (a) State and local governments;
- (b) Private non-profit organizations or institutions which own or operate a private nonprofit facility as defined in 44 C.F.R. § 206.221(e); and
- (c) Indian tribes or authorized tribal organizations.

An eligible PNP must first qualify as a private non-profit organization through either (a) an effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or (b) Satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law. 44 C.F.R. § 206.221(f). Secondly, a PNP must own or

operate a facility that provides services considered eligible under PA statutory and regulatory authorities, or policy guidance. 44 C.F.R. § 206.221(e); *PAPPG*, at 45-47.

Stafford Act § 102(11) defines “PNP facility” as a facility that provides one of the services listed below:

- (A) In General – the term “[PNP] facility” means private nonprofit educational (without regard to the religious character of the facility), utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.
- (B) Additional Facilities – In addition to the facilities described in subparagraph (A), the term “[PNP] facility” includes any private nonprofit facility that provides essential social services to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, food banks, broadcasting facilities, houses of worship, and facilities that provide health and safety services of a governmental nature), as defined by the President.

Here, Project Veritas qualifies as a PNP organization because it has a current ruling letter from the IRS granting it tax-exempt status under the Internal Revenue Code § 501(c)(3). However, according to the Applicant’s Articles of Incorporation, its response to the RFI, and its website, FEMA determines that the primary function of Project Veritas is to provide investigative journalism services. These services are not recognized by FEMA as eligible critical or essential social services. Because Project Veritas does not comply with the second requirement for PNP eligibility, its RPA is denied.

Eligibility Determination: Partially Approved Denied

Based on the submitted documentation, FEMA has determined that Project Veritas is not an eligible applicant for PA funding because it does not provide an eligible critical or essential social service.

Notice of Right to Appeal:

Project Veritas may appeal this determination to the Regional Administrator, pursuant to Title 44 of the Code of Federal Regulations § 206.206, Appeals. The appeal may be submitted electronically via the FEMA Grants Portal/Grants Manager System (GM). If Project Veritas elects to file an appeal, the appeal must: 1) contain documented justification supporting its position, 2) specify the monetary figure in dispute, and 3) cite the provisions in federal law, regulation, or policy with which it believes the initial action was inconsistent.

The appeal must be submitted to the Recipient, NYS Division of Homeland Security & Emergency Services, by Project Veritas within 60 days of its receipt of this determination.

The Recipient’s transmittal of that appeal, with recommendation, is required to be submitted to our office within 60 days of the receipt of Project Veritas’ letter via email to fema-r2pa-appeals@fema.dhs.gov or via GM.

If you have any questions, please contact the NYS Division of Homeland Security & Emergency Services, Joe Stinson, at 518-925-6560 or joseph.stinson@dhses.ny.gov.

Preparation and Review:

Preparer: Danahi Contreras Soto, Appeals Analyst

Office of Chief Counsel Reviewer:

Signature: _____

Date: _____

Approval:

PA Management:

Signature: _____

Date: _____

Document Index:

Document Description	File Name
Request for Public Assistance (RPA)	<u>RPA_Report_127388_20220211(1).pdf</u>
Project Veritas Articles of Incorporation	Project Veritas - Articles of Incorporation.pdf
Project Veritas Bylaws	Project Veritas - Bylaws.pdf
Project Veritas Certificate of Amendment	Project Veritas - Certificate of Amendment.pdf
Project Veritas - Eligible Services Response	Project Veritas - Eligible Services Response.pdf
Copied from RPA	Project Veritas IRS Determination Letter.pdf
Response to OCC Request Additional Information	RE_OCC Request For Information_ Project Veritas (119-UGNSR-00).pdf