

## POLICY STATEMENT

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### NEWFOUNDLAND AND LABRADOR DISASTER FINANCIAL ASSISTANCE PROGRAM

#### INTRODUCTION

The Department of Justice and Public Safety (JPS), through the Emergency Services Division, is responsible for the administration of the Federal Government's Disaster Financial Assistance Arrangements (DFAA) when the Government of Newfoundland and Labrador authorizes a provincial disaster financial assistance program (NL-DFAP) in response to a specific emergency or adverse weather event.

The following policy statement must be read in combination with the Federal Government's *Guidelines for the Disaster Financial Assistance Arrangements* and the DFAA program publication "Manual to assist in the interpretation of federal guidelines EPC 22/88". These guidelines were updated in February 2015 and are available on-line at <https://www.publicsafety.gc.ca/cnt/mrgnc-mngmnt/rcvr-dsstrs/gdlns-dsstr-ssstnc/index-eng.aspx>.

Through the DFAA, the Federal Government provides basic financial assistance to help Provincial Governments meet the costs of eligible disasters that exceed what they might reasonably be expected to bear on their own.

A definition of what the Federal Government considers "financial hardship" for a province is implied in the DFAA Program funding formula as follows:

Eligible Provincial Expenditures per capita of provincial population*	Government of Canada Share	Government of Newfoundland and Labrador Share	Approximate cost to the Government of Newfoundland and Labrador
First \$3.25	0%	100%	\$1,691,420
Next \$6.51	50%	50%	50% of the next \$3,388,044
Next \$6.51	75%	25%	25% of the next \$3,388,044
Remainder	90%	10%	

\*Provincial population is the Statistics Canada population estimate for July of the calendar year in which the disaster occurs; Q2 2020 population of 520,437 data used for illustration purposes.

The formulas will also be indexed to inflation annually based on the consumer price index published by Statistics Canada. For consistency purposes, national-level data will be used to calculate inflation.

The revised formula, adjusted for inflation, will take effect on January 1 of every subsequent year, starting in 2016. The federal DFAA Guidelines will be updated annually during the month of February to reflect the revised formula. More information can be found at <https://www.publicsafety.gc.ca/cnt/mrgnc-mngmnt/rcvr-dsstrs/gdlns-dsstr-ssstnc/index-eng.aspx>.

Thus, the Government of Newfoundland and Labrador is currently responsible for \$4,996,372 of the first \$8,329,025 of eligible costs of a disaster/emergency response, and 10 percent thereafter.

In the event of an emergency/disaster where funds are raised (such as disaster relief funds), the amount collected must be used to cover ineligible expenditures under DFAA. If such funds are used to support DFAA eligible expenditures, they will be deducted from the Province's eligible federal reimbursement.

The NL-DFAP is designed to provide basic financial assistance to help individuals, small business, charitable/non-profit/cooperative organizations, municipalities, and farm operations meet the cost of disasters which exceed what they might reasonably be expected to bear on their own.

A disaster is defined as an abnormal event, such as a storm surge, flooding, landslide, hurricane, or tropical storm that occurs in a defined geographical area and results in widespread damage that threatens the necessities of daily living and represents a burden to the affected communities and the Province. It is not the result of negligence or deterioration of property and infrastructure. The DFAA does not apply to:

- Disasters where effects are limited to a single economic production sector;
- Chronic or pandemic health emergencies, including recurring or new health threats;
- Public order, civil disorder, criminal and terrorist acts, or international armed conflict; and
- The fighting of forest, grass, or wildfires except where they pose a threat to built-up areas and then primarily for pre-emptive actions, evacuation, and damaged infrastructure restoration.

An NL-DFAP is designed explicitly around the federal Government's *Guidelines for the Disaster Financial Assistance Arrangements* as the Province must prepare a provincial claim under DFAA (inclusive of all claims from individuals, small business, organizations, and municipalities) to cover all eligible costs, including costs incurred by the provincial government itself. Crown Corporations are only eligible for funding assistance for damage and repair to water and sewer services.

It is the primary goal of the NL-DFAP to ensure that the claim process is well managed for clients, that appropriate records are maintained to maximize the federal government's reimbursement to the Province, and that the federal government reimburses the Province in a timely fashion. The NL-DFA Program Guidelines/Criteria clarifies responsibilities, ensures consistency in response across events, manages

government's financial exposure, and streamlines the DFAA claiming process.

### **Guiding Principles**

- Individuals, communities, and all levels of government share responsibilities for disaster recovery; an NL-DFAP must respect the roles and responsibilities of all in dealing with and recovering from adverse events
- An NL-DFAP must be transparent and user-friendly and treat all claimants fairly and equitably
- An NL-DFAP must be fiscally responsible and used as a program of last resort
- An NL-DFAP must be based upon the federal program to maximize and expedite financial recoveries for the Province
- An NL-DFAP provides financial assistance to restore/repair the property to pre-disaster condition and replaces essential items as per DFAA guidelines

It should be noted that expenditures for which provision is made for full or partial reimbursement to the Province under any other federal program existing at the time of the emergency, whether or not the Province accessed the program, are not eligible. Furthermore, the DFAA cannot be applied to top up assistance available under other programs, or to by-pass prescribed limits to the contributions and terms of other programs.

### **Triggering an NL-DFAP**

The trigger for an NL-DFAP occurs on a case by case basis. It is in response to abnormal events such as a storm surge, flood, landslide, hurricane, or tropical storm that occurs in a defined geographical area and results in widespread damage that threatens the necessities of daily living and represents a burden to the affected communities and Province. It is not the result of negligence or deterioration of property and infrastructure, nor would a program be triggered at the level of one destroyed home.

The following process is followed to trigger an NL-DFAP:

- Assessment by the Emergency Services Division, in cooperation with and the use of expertise in other provincial government departments such as the departments of Transportation and Infrastructure, and external resources such as Environment Canada
- The Emergency Services Division recommends to the Minister Responsible for the Emergency Services Division whether or not to trigger a provincial disaster financial assistance program (NL-DFAP)
- Minister recommends to Government that a provincial disaster financial assistance program be triggered. The recommendation occurs via a briefing note to Cabinet requesting a commitment to expend un-budgeted financial resources in response to the emergency/adverse event.

## **Determining the Eligibility of a Claim**

### **a. General Criteria**

For eligibility, the following criteria must be met: Property must have sustained damage from the recognized emergency/disaster in which the Province of Newfoundland and Labrador has made application to the Government of Canada for assistance under the DFAA. An independent third party must verify Event-related damages as being caused by the disaster/emergency. For the individual, small business, and non-profit claims, independent adjusters verify these damages. Municipal damages are verified by municipal engineering staff from the Department of Transportation and Infrastructure (TI) and, at times, engineering firms that are engaged by municipalities. Provincial infrastructure damage is verified by engineering staff from the (TI) or external consultants.

Applications from individuals, small businesses, non-profits (including charitable and cooperative organizations), municipalities, and farm operations must be made to the Emergency Services Division. Application packages are available from the Emergency Services Division offices, on-line at the Emergency Services Division's website, or through the affected municipality. An application must include a list of the damaged items, proof of property ownership (a property deed or confirmation from the municipality), Confirmation of Insurance Form (where applicable), invoices for costs incurred, and pictures of the damages. The deadline for receipt of applications will be determined with the announcement of a provincial disaster financial assistance program; this is typically 3 months from the date of the event, which has been approved for a provincial disaster financial assistance program.

### **b. Assessing the Eligibility of an Individual/Small Business/Non-Profit Claim**

The Claims Examiner reviews all the documentation collected regarding a claimant's application to assess the eligibility of the claim. A completed claim must include:

- Application
- Itemized inventory of loss
- Completed Confirmation of Insurance Form (where applicable)
- Proof of property ownership
- Final Release and Indemnity Form
- Adjuster's report and applicable forms including estimate/quote of damage and repairs recommended
- Business records and Non-profit records, where applicable
- Invoices, receipts, etc.
- Other information that may be required to meet the intent of these guidelines (for example, final inspection report when repairs are completed)

The Claims Examiner then makes a recommendation regarding the eligibility of the claim. The Manager of DFAA reviews and signs off on the eligibility of the claim. An offer is made to the claimant to restore their property to pre-disaster condition, or the claim is denied.

**c. Review Procedure for Individual/Small Business/Non-Profit Claim**

If a claimant is dissatisfied with the decision regarding the determination of their claim, the first right of review is to the Director of Emergency Services. The claimant must write the Director to request a file review. The Director will then conduct a review of the claim in consultation with the Claims Examiner and Manager of DFAA and advise the claimant in writing of the status of the review. The final right of review is to the Deputy Minister. The claimant must write the Deputy Minister to request a final file review. The Deputy Minister will then conduct a final review of the claim in consultation with the Director of Emergency Services, Manager of DFAA, and Claims Examiner, and advise the claimant in writing of the status of the final review.

**d. General Guidelines to cover all Categories of Claims**

These guidelines cover all categories of claims, including individual claims, small business claims, non-profit claims (including charitable and cooperative organizations), municipal claims, farm operations, and provincial government claims (infrastructure and administrative costs). An expanded guideline for each category of claim is included in the NL-DFA Program Guidelines/Criteria.

1. Only those items considered essential will be covered under a provincial disaster financial assistance program (see Financial Assistance Schedule of Loss in the NL-DFA Program Guidelines/Criteria). Essential items would be defined as those things required to replace or to restore the necessities of life.
2. Structural damage to a principal residence/business/non-profit organization may be eligible. The Province may decide to establish maximum amounts to be paid out for overall structural damage. Maximum amounts may be established for items such as carpet, furnaces, plumbing costs, etc. Water and sewer services essential to the damaged building will be included in structural loss and may be subject to applicable limits. Lawn and garden damage is not generally covered other than for debris clearance. However, if the Insurance Adjuster verifies the structural stability of the building is threatened, or the safety and well-being of the members of the family or the general public are in jeopardy, then lawn damage may be eligible. Municipal by-laws may affect this determination as well.
3. Essential contents damage will be covered for a principal residence only; basements may be considered as a principal residence for tenants only. There may be some instances where some contents in basements may be eligible, such as a family member may have a bedroom in the basement, a primary television may be found in a recreation room in a basement, a washer, dryer, deep freeze may be housed in the basement, etc. All reasonable attempts must be made to store contents in a non-damaged area of the home or with family. In extreme circumstances, payment for storage may be approved but must be looked at on a case by case basis.
4. Non-principal residences (for example, rental units) do not qualify for disaster financial assistance unless they can be verified as a small business venture. See separate Small Business Guidelines in NL-DFA Program Guidelines/Criteria.
5. Upgrading or improvement costs may be eligible when it can be verified that such costs are for mitigative purposes only. Reimbursement is limited to 15% of the estimated cost of repair.

6. Retaining walls are only eligible where the damage presents a safety issue; for example, the retaining wall forms part of a principal residence or eligible structure, and the wall is essential to sustain the property/main structure.
7. Driveways may be eligible when it is defined as a vehicle path from a public roadway to a private or a public building or parking area. Driveway repairs for access or safety are eligible as part of the claim of the property owner.
8. Any indication of property neglect will be taken into account when assessing the claim and may reduce the total amount paid. Items falling within this category may include buildings, contents, furnaces, septic tanks, etc.
9. Proof of property ownership is required on all claim applications.
10. Every reasonable effort must be made by the claimant to overcome the effects of the damages to their property and with their resources. There may be circumstances whereby this is not possible. In such cases, claimants may be approved for up to a maximum amount of \$500.00 per household/business/non-profit claim for clean-up costs (debris removal, water removal, general clean up). Labour costs for the clean-up will be based on the minimum wage, and verification of payment is required.
11. Rental Costs for cleaning equipment such as heaters and pumps are eligible. Rental equipment approval will be based upon a determination by the Insurance Adjuster assessing the claim.
12. Temporary accommodation expenses incurred in the immediate disaster/evacuation period may be eligible for a claim when supported by receipts to a maximum amount to be determined. If the Province has provided alternate sites for accommodations, those sites must be used by displaced claimants. Temporary accommodations will only be eligible if space is not available at the alternate sites or for medical reasons and will be subject to demonstrated need (on the advice of the Department of Advanced Education and Skills, physician, etc.).
13. Damage to homes or infrastructure built before the area was designated as a flood zone will be eligible for disaster assistance funding. Damage to property built, or additions or extensions added to the property, in an area after it was designated as a flood zone, will not be eligible.
14. Property owners who have sustained damage to property and/or buildings that have been deemed uninhabitable remain responsible for the damaged property and/or buildings until the Emergency Services Division determines the eligibility of the claim. In some cases, the property may be repaired for habitation while, in other cases, the property may be deemed un-repairable. Property deemed un-repairable and purchased by the Provincial Government will have structures demolished, and the land conveyed to the appropriate authority.
15. For work undertaken immediately after an emergency, when there is no time to obtain estimates, the homeowner/business owner/non-profit group/municipal council/provincial department is responsible for keeping records of the description of the damages. Records may include photographs, statements of repairs completed to date, assessments as to what was required to restore the damages to pre-disaster condition, and an explanation as to why the repairs had to be completed right away.

## What is Not Covered under an NL-DFAP

For greater certainty, the following list identifies the most common items that are raised during the delivery of an NL-DFAP but are not covered under the NL-DFAP:

- Loss of income
- Damage/loss which is reasonably insurable
- Damage/loss of vehicles and recreational machines such as snowmobiles and all-terrain vehicles
- Damage/loss of non-resident property including seasonal, secondary, and recreational properties such as cottages, summer homes, and cabins
- Damage/loss of repairing roads whose sole purpose is to provide access to or within private recreational areas
- Damage/loss caused by fire (unless an event is deemed eligible under DFAA as per the fourth bullet on page 2)
- Damage/loss to large businesses (gross annual revenue greater than \$2M)
- Damage/loss to property or structures that are subject to recurrent erosion (other than roadways)
- Damage/loss to non-essential and luxury items, such as jewelry, cosmetics, household tools, seasonal decorations, recreational and pleasure items, sporting goods, sophisticated audio and video equipment, fur coats, etc.
- Damage/loss which occurs in a designated flood zone
- Sewer backup is not eligible as it is an insurable peril and all other types of claims where insurance is reasonably available (Individual, Small Business, Non-profit, etc.).