California Seismic Safety Commission

and

California Small Business Development Centers Disaster Resource Guide

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Introduction:

In an effort to bring forth an awareness of disaster preparedness amongst the State's small businesses, the California Seismic Safety Commission contracted with the California Small Business Development Centers (CASBDC) to assess the preparedness amongst California small businesses in the event of a natural disaster. A result of this contract was two-fold, one was to conduct a survey of California small businesses and secondly, it was the creation of the California Small Business Disaster Resource Guide.

The California Small Business Disaster Resource Guide was created by the gathering of best practices from sister SBDCs nationwide that had encountered natural disasters; those SBDC networks were: Louisiana (Hurricane Katrina), Missouri (Joplin), New York and New Jersey (Hurricane Sandy). This resource guide is accessible for small businesses to use to get answers on natural disaster funding made available by the U.S. Small Business Administration and FEMA, along with links to websites and contact information. There is a list of "Emergency Hot Links" that makes it easy to find the contact information for those necessary entities following a disaster. Each organization can provide relief to the small business owner in its own unique way. It is recommended that business owners have these "Emergency Hot Links" available to locate at a moments notice.

One discovery from the survey was that over 50% of the respondents did not have natural disaster/business interruption insurance. As a result of this discovery, there is specific guidance on suggested questions that a small business owner can ask an insurance agent when preparing for a disaster.

In addition, at the end of the resource guide is a tri-fold brochure titled, "Small Business Disaster Preparation Tips," which is a quick reference for business owners that discusses what can be done prior to a disaster and steps that can be done after the disaster has occurred.

This resource guide is the beginning of creating increased awareness, amongst California's small businesses, of the necessity to be prepared for natural disaster.

Special Acknowledgements:

Many thanks to the Missouri, Alabama, Louisiana and New York State SBDC Networks for their valuable input and hard-earned experiences that led to the creation of this document for the benefit of all California small business owners.

Message to the Business Owner:

Dear Small Business Owner,

Whether you are just now starting to prepare for a disaster or one has already occurred, you have all the resources you will need right here in this document. It was created specifically for California business owners like yourself. Have the confidence and the patience to know that you ***can*** recover your business after a major interruption from a disaster. Use this guide and prepare, or use this guide to find your way back. Also, reach out to your local Small Business Development Center Network. They have a team of consultants who can provide free one-on-one business consulting services for small business owners, and are a terrific resource to answer all your business questions. Good luck!

Emergency Hotlinks

Financial and Recovery Assistance

- Employment/ Unemployment questions: www.edd.ca.gov
- Rebuilding/Hiring a Contractor: www.cslb.ca.gov; (800) 962-1125
- To report price gouging and/or register a complaint: http://oag.ca.gov/contact/consumer-complaint-against-business-or-company

California Seismic Safety Commission: (916) 263-5506; www.seismic.ca.gov

American Red Cross: www.redcross.org

FEMA Disaster Assistance Hotline: 1-800-621-FEMA or 1-800-621-3362; TTY 1-800-462-7585

FEMA Emergency Plans for Business: http://www.fema.gov/pdf/business/guide/bizindst.pdf

California Office of Emergency Services: www.calema.ca.gov

The Institute for Business and Home Safety: www.ibhs.org

California Small Business Centers: http://californiasbdc.org

SBA Disaster Assistance Center: 1-800-659-2955 or 1-800-359-2227
http://www.sba.gov/about-offices-content/1/2462

Information on SBA disaster loans for businesses: http://www.sba.gov/category/navigation-structure/loans-grants/small-business-loans/disaster-loans

Unemployment Compensation Claims: 1-800-333-4606; for Employment/Unemployment questions go to www.edd.ca.gov

To verify contractor licensure: call 1-800-321-CSLB or go to
https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/CheckLicense.aspx

Disaster Prep Checklist

What to do Before, During and After a Disaster

- ☐ Know Your Risk. Check your hurricane evacuation level and FEMA flood maps to determine if your business location is vulnerable to storm surge or freshwater flooding. Have your building(s) inspected by a licensed professional to find out if your workplace is vulnerable to hurricane force winds and what is recommended to retrofit.

- ☐ Take the Necessary Precautions. If a storm threatens, secure your building. Cover windows. Cover and move equipment/ furniture to a secured area.

- ☐ Always Protect Your Data With Backup Files. If dependent on data processing, consider an alternate site. Make provisions for alternate communications and power.

- ☐ Make Plans to Work with Limited Cash, No Water, Sewer or Power for up to Two Weeks. Store emergency supplies at the office.

- ☐ Protect Your Employees. Employee safety comes first! Prepare, distribute and discuss your business hurricane plan for recovery. Consider providing shelter to employees and their families and helping employees with supplies after the storm. Establish a rendezvous point and time for employees in case damage is severe and communications are disrupted. Establish a call-down procedure for warning and post- storm communications. Provide photo IDs and a letter of authorization to enter the building.

- ☐ Contact Your Customers & Suppliers and share your communications and recovery plan in advance. Prepare a list of vendors to provide disaster recovery services.

- ☐ Review Your Insurance Coverage. Have your business appraised at least every five years. Inventory, document and photograph equipment, supplies and workplace. Have copies of insurance policies and customer service/home numbers. Obtain Business Interruption Insurance. Consider "Accounts Receivable" and "Valuable Papers" coverage and "Income Destruction" insurance. If you have a Business Owners Protection Package, check the co-insurance provisions. Remember: Flood damage typically requires separate coverage. Check your policy for coverage.

- ☐ After the Storm or other disaster: use caution before entering your business. Check for power lines, gas leaks and structural damage. If any electrical equipment is wet, contact an electrician. Prepare loss information for insurance claims and get independent estimates of damages. Take pictures before cleanup. Minimize additional damage.

Business Insurance

Types of Claims

For direct property damage, including collateral damage, and for indirect property damage, including business income losses; extra expenses; and computer, valuable records and data processing losses, you can look to the following types of policies:

- All risk policies
- Named peril policies (fire, etc.)
- Building and personal property policies
- Business owner property policies
- Boiler and machinery policies
- Computer policies
- Commercial inland marine policies
- Causes of commercial loss policies
- Condominium commercial property or owner policies Homeowner/renter policies
- Ordinance or law commercial property policies
- Jewelers block policies
- Flood policies
- Valuable papers and records policies

20 Questions to Ask Your Insurance Agent before a Disaster

1. If I don't already have one, am I eligible for a BOP policy?

2. What deductible do I have and how does it apply?

3. Do I have a copayment and/or coinsurance?

4. If I have coinsurance how does it work?

5. Is my property coverage on an actual cash value basis or a replacement cost basis?

6. Is my personal property and building coverage on the same basis (replacement cost vs. actual cash value)?

7. Do I have/need a peak season endorsement on my inventory?

8. If my policy is a "named perils" policy, what perils are covered? Are there any possible causes of loss that could impact my business that are not covered? Would an open perils policy cover those types of losses?

9. What types of losses are excluded under this policy? Which ones might be particularly relevant to my business?

10. What are my policy limits and how do the limits apply? Do I have/need an inflation guard?

11. If I increase my deductible, how much does my premium go down?

12. If I increase my limits, how much does my premium go up?

13. Would a blanket policy (for multiple locations) be helpful to me?

14. Are there any premium discounts that I could be eligible for? Is there anything I can do to get [additional] premium discounts?

15. How many carriers do you work with that underwrite my type of policy? Why did you choose to place my business with the company you selected? *Ask this question if you are working with an independent agent.*

16. Have you "shopped" my insurance recently?

17. Is my insurance through the surplus lines? What does that mean for me?

18. What is my company rated by AM Best and/or Standard and Poor? How does that compare to other insurers?

19. Do you conduct free, regular risk assessments? How often? *(If not, you might consider working with an agent who does.)* Is there any exposure that you are aware of for which I do not have insurance?

20. Should I consider getting a claims-made basis liability policy instead of occurrence?

Submitting Claims

STEPS TO TAKE IMMEDIATELY

Step 1
Find your business insurance policy. Be sure to read the policy carefully to clarify what losses your insurance company covers and what losses are your responsibility.

If your insurance documents were destroyed in the disaster, do not panic. Call your insurance agent or insurance company and request a copy of your policy. Ask for the entire policy -- not just the cover page or the declarations. If you do not know the name of your insurance company or insurance agent, check with your mortgage lender or with your bank. They may have records of your insurance information. If those options are unavailable, call the California Department of Insurance, which can be reached at 1-800-927-HELP (4358) or at http://insurance.ca.gov/.

Step 2
You should contact your insurance agent or insurance company IMMEDIATELY to begin the claim process. Most policies require that the business owner promptly notify the insurance company of damage or losses. For that reason, it is important that you begin the claims process as soon as possible. You should contact your insurance agent or insurance company even if you do not know if you are covered or if your claim may not exceed your deductible. If you have separate flood insurance, also call your flood insurance agent to report your claim. Your insurance agent will prepare a Notice of Loss form, and an adjuster will be assigned to assist you.

Most insurance carriers and state departments of insurance offer a toll-free telephone number to facilitate the claim filing process. Section 11: Contacts and Resources of this guide includes the contact information for most of the nation's insurance companies.

When you call your insurance agent or insurance company, be prepared to provide:

- The name of your insurance company (your agent may write policies for more than one company)
- Name and address of insured
- Your policy number
- Contact name, phone and fax number
- Location of loss

- Date and time of loss
- Brief description of loss

When you contact your insurance company, ask when an insurance adjuster (a person professionally trained to assess the damage to your property) can be expected to visit your property so that you can plan for the visit. Also ask the insurance company for the specific information required for the proof of loss. Some companies may have a detailed list of documents they seek or require you to fill out a particular form. A proof of loss provides details identifying the property destroyed or damaged and documents the amount of loss incurred.

Keep your insurance company informed of your current contact information. If you are in a shelter or cannot easily be reached, make sure to give your insurance company or agent the contact number of a friend, relative or someone else who knows how you can be reached.

When dealing with your insurance company, document every conversation. Be sure to write down the name of the person with whom you speak, the date and the substance of your call and your claim number. It may be helpful to keep all of this information in a notebook so that it is in one place. This will help in future dealings with the insurance company.

Step 3

If reasonably possible, protect the property from further damage. Damaged property that presents a health hazard or that may hamper local clean-up operations should be disposed of. Be sure to adequately describe and photograph discarded items so that when the adjuster examines your losses and your records, these articles are included in the documentation.

Photograph the outside of the premises, showing any damage or flooding. Photograph the inside of the premises as well, showing the damaged property and the height of the water if your property was flooded. However, do not enter your property if it is not safe to do so. Separate the damaged from the undamaged property, and put it in the best possible order for the insurance adjuster's examination.

Collect and organize backup documents. Gather additional information and documents for the proof of loss. Generally, any information substantiating the claim (photographs, receipts, records) can become proof of claim. Gather vital records, ledgers and other proof that supports valuation.

Prior to signing an agreement/contract with a cleaning, remediation or maintenance contractor, consult with your adjuster or insurer concerning coverage.

If damage in your area is widespread, check with local authorities to see if they are coordinating debris clean-up.

Step 4
Make a list of areas with structural damage. As you look over your property, make a list of structural damage you want to point out to the insurance adjuster.

If you've purchased contents coverage, make a list of damaged property. List the quantity of each item, a description, brand name, where purchased, its cost, model and serial number (if appropriate) and your estimate of the loss amount. Attach your bills, receipts, photos and any other documents. Good records speed up settlement of your claim.

Can I make temporary repairs?
Before making any repairs, get written permission from your insurance company. Once you have that permission, even if the adjuster has not visited yet, make all necessary temporary repairs such as boarding up windows and repairing holes in the walls or roof. Move your personal property to a protected area. Do not dispose of items you believe are a total loss until the insurance adjuster has inspected them or unless you are instructed to do so by local officials. If you must dispose of damaged items, photograph them and take a swatch or sample. Take photographs before you begin repairs or cleanup, and keep all of your receipts for your expenses.

Make sure anyone you hire to make temporary repairs is properly licensed by the CA Contractors State License Board (www.cslb.ca.gov)

Can I hire someone else to make emergency repairs?
Usually you can hire someone else to make temporary or emergency repairs, depending on the coverage your policy provides. Such policies usually cover materials and reasonable labor expenses for temporary and emergency repairs in addition to final repairs. Get several estimates. Also, contact your insurance company to find out if you will be reimbursed for repairs you conduct yourself. Keep all of your receipts for your expenses.

Handling Your Claim

If an adjuster is not assigned to you within several days, contact your insurance company or the state department of insurance. It is a good idea to make the request for an adjuster in writing. Keep in mind that an adjuster will not be able to visit your property until officials declare that is safe.

Working With Your Adjuster

Generally, your adjuster will contact you within 24-48 hours after receiving your notice of loss. However, depending on local conditions and the severity of the disaster, it may take more time. Once the adjuster contacts you, a time will be set for the adjuster to view your property. You may ask the adjuster for an advance or partial payment.

During the initial visit to your property, the adjuster will take measurements and photographs and note direct damage. This is called "scoping" a loss. Be assured that your adjuster will be an experienced claim professional and will notice many points of damage you could overlook. You are, however, encouraged to point out all damage you have noticed. After the "scope" is finished, the adjuster will give you a local contact telephone number and will tell you whether any additional visits are needed.

The adjuster then uses the evidence from the visit(s) and the documentation you have provided to complete a detailed estimate of damages. You will get a copy of the estimate. Use it as a guide when you ask for bids for repair work from licensed professional contractors.

You can also ask your insurance company for an advance on your insurance proceeds. Funds disbursed in the form of an advance will be deducted from the final settlement. If you have a mortgage, your bank will need to sign the advance check.

You may also be eligible for expedited assistance from the federal government through FEMA. You can apply for such assistance through FEMA on line at http://www.fema.gov, or by calling 1-800- 621-FEMA (3362), TTY 800-462-7585. FEMA representatives typically visit disaster assistance centers.

Your official claim for damages is called a Proof of Loss. This must be fully completed and signed and in the hands of your insurance company within 60 days after the loss occurs. The Proof of Loss includes a detailed estimate to replace or repair the damaged property. In most cases, the adjuster, as a courtesy, will provide you with a suggested Proof of Loss. However, you are responsible for making sure that it is complete, accurate and filed in a timely manner. Be sure to keep a copy of the Proof of Loss—and copies of all supporting documents—for your records.

Payment of Claims

Your claim is payable after:

- You and the insurer agree on the amount of damages.
- The insurer receives your complete, accurate and signed Proof of Loss.

In general, insurance companies should acknowledge receipt of your claim within 15 days of receiving it and should communicate decisions on claims within 40 days of receiving them. Payouts should occur within 30 days of your acceptance of their offer. More information on claims payment is in your policy.

Business Interruption Losses

Business interruption coverage is a typical and *important* part of most businesses' property insurance programs. Business-interruption coverage is purchased to cover the loss of business income and at least some of the extra expenses associated with restoring business operations.

Step 1: Review Your Policy

The following types of coverage are typical in business interruption insurance policies. It is important for you to review these to ensure that you maximize your ability to continue operations with minimal disruption.

Types of Coverage

***Business Income Coverage*:** Designed to replace income that would otherwise have been earned by the business had no loss occurred. Business income is generally defined as the net profit or loss before taxes, plus continuing normal operating expenses, including payroll. This insurance definition contrasts with the accounting definition of net profit (or loss), which is the net profit after taxes. Coverage is generally limited to the loss of income sustained until the property is restored or for a specified period of time following the physical loss or damage. Other limitations apply to the period for which "ordinary payroll" coverage is included (often 60 days).

Extra Expense Coverage: Designed to pay for necessary expenses incurred during the period of restoration of the property because of the loss or damage to the property. Extra expenses include those necessary to continue operating the business at its original location or at a temporary replacement location until the original location is repaired. Extra expenses may also include expenses that minimize the time your business is unable to operate or those necessary to repair or replace damaged property or valuable papers and records.

Contingent Business Interruption Coverage: Designed as an extension of coverage to cover loss of income incurred due to a property loss at key supplier or customer location. For example, if a key supplier experiences a fire at its plant and is unable to deliver parts or goods necessary for the continuation of your business, you may have a claim for a contingent business interruption loss.

Civil Authority Coverage: Covers loss of business income and extra expense due to the government's denial of access to property or due to a covered loss at a location owned by others. A waiting period may apply before coverage begins, and coverage generally applies only for a few weeks.

Ingress/Egress Coverage: Coverage may be provided for loss of business income and extra expense when you cannot gain access to your property without the government action required under the coverage for closure by a civil authority.

Miscellaneous Related Coverage: Other related coverage may include dust and debris removal coverage, event-cancellation coverage, valuable-papers coverage and service-interruption coverage.

Possible Coverage Adjustments

Extended Period of Indemnity: May extend period for loss of income coverage for a specified time beyond completion of repairs.

Definition of "Suspension": May determine whether a complete or partial cessation of business is needed to trigger coverage.

Resumption of Operations: May limit business interruption loss to the point at which operations can be even partially resumed, even though the business may not be able to fully sustain itself.

Coinsurance Provisions: Requires that policyholders must pay a share of business income loss if the actual loss sustained is substantially higher than the estimated income established at the time insurance was purchased.

Agreed Value: Establishes in advance a maximum for recovery in any given month.

Covered Locations: Identifies what locations are covered. There may be extensions of coverage for "newly acquired locations" to cover property recently acquired and for property at locations not owned by the insured.

Building Ordinances: May provide coverage for the additional time to rebuild due to compliance with building ordinances.

Electronic Media and Records Limitation: May limit replacement period for electronic data and documents.

Typical Exclusions

Idle Periods: Coverage is generally excluded for periods when operations would have been idle.
Interference: Additional costs for rebuilding due to labor unrest may be excluded.

Loss of Contracts: Income loss on long-term contracts may be limited to period ending with completion of repair or replacement.

Consequential Losses: Coverage for consequential losses may be excluded; however, business interruption policies may contain an extension of coverage for such losses.

Utility Service Interruption: Precludes coverage for interruption of services from utilities.

Finished Stock: For manufacturing operators, recovery for lost profits on finished stock may be covered under physical damage to property rather than under interruption.

DO NOT DELAY in contacting your insurance company. Give notice quickly to avoid penalty or voided coverage. Refer to the steps listed above in making a property insurance claim.

Calculating Business Interruption Losses

Business interruption claims can become more difficult and even contentious when differences of interpretation emerge about the reliability of projections or the meaning of policy provisions. A successful claim entails maneuvering through the gray areas inherent in business interruption, including financial projections, consumer demand and policy interpretation, to reach a number that's reasonable, credible, defensible and well supported.

The following is a common example of a worksheet that can be used to calculate your business- interruption loss:

SAMPLE BUSINESS INTERRUPTION WORKSHEET

1. Gross Sales $_____

2. Adjustments to gross sales
   (includes discounts given, returns and allowances, bad debts, freight) $_____

3. Net Sales (1 minus 2) $_____

4. Other income that would be lost if operations were interrupted
   (includes rent, interest, service fees) $ _____

5. Total revenues (3 minus 4) $_____

6. Merchandise or materials consumed
   a. Purchases during the year $_____
   b. Changes in inventory
      Beginning inventory $_____
      Ending inventory $_____
      Change (beginning minus ending) $_____

   c. Total (a plus b) $_____

7. Gross earnings (5 minus 6c) $ _____

8. Discontinuing expenses (includes payroll that would not continue, rent, heat, light, delivery, advertising, maintenance cost, etc.) $ _____

9. Gross Earnings Discontinued Expenses (7 minus 8) $ _____

Adjust Gross Earnings After Discontinued Expenses for period or Interruption Expected

Insurance Needed
1 year: Line 9* 1.00 = $_____
9 months: Line 9*0.75= $_____
6 months: Line 9*0.5 = $_____

Supplemental Claims

If you notice additional damage to your building property or personal property after filing your claim, you may file a supplemental claim. This means, essentially, that you must repeat the documentation and filing process for your original claim -- including a proof of loss -- but only for the newly discovered damage. Supplemental claims should start by immediately notifying your adjuster, agent and/or company representative. Once you have completed documentation, present it to your adjuster, who may need to make another property visit to verify your loss.

Once you receive the letter stating that the cost to repair damage to your building is 50 percent or more of its market value, you may file an increased cost of compliance claim (ICC). You should contact your adjuster or your insurer's claims representative to file the ICC claim. You have four years from the date of the letter declaring the building to be substantially damaged to complete your chosen mitigation activity under the terms of the standard flood insurance policy. Your insurer will provide you with additional information to assist you in completing your ICC claim.

Insurance FAQ

I own a business. What kinds of insurance coverage could I have for claims made against me or my company?

Workers' compensation claims can be brought against you by injured employees or their families for disability and lost wages. Injured visitors or those employees who are exempt from workers' compensation may have claims under health insurance, short and long-term disability and travel accident policies. You may be covered by commercial general liability policies for lawsuits brought against you for bodily injury or property damage. Commercial and personal umbrella and excess policies may provide additional coverage.

My insurance company has denied me coverage or has offered me less than I think I should receive. What can I do?

Insurance companies are required to acknowledge receipt of claims, communicate their decisions on claims and pay claims in a timely manner. In general, insurance companies should acknowledge receipt of your claim within 15 days of receiving notice of your claim and should communicate decisions on claims within 40 days of receiving your claim. Payouts should occur within 30 days of your acceptance of their offer.

If coverage is denied, in whole or in part, ask the insurance company to provide you with its reasons ***in writing***, as well as whether it has an appeals process. You should ask for any reports prepared by the insurance company in assessing your property or evaluating your claim. You may also want to seek an advance of the undisputed portion of your claim, if you can do so without giving up your rights to the disputed portion. Contact your state department of insurance if you feel your claim has been wrongfully denied. You may want to seek help from an attorney, but be aware that their fee often will reduce your total recovery.

Most insurance policies have a one-year statute of limitations from the date of the occurrence of the damage for bringing a lawsuit against the insurance company for failure to pay a claim. If you do not file your lawsuit within this period, you may be prevented from doing so. You should read your policy and check the applicable law for the statute of limitations.

I am not happy with the way my insurance company has treated me. What should I do?

Contact the California Department of Insurance:
California Department of Insurance Consumer Help Line
1-800-927-HELP (4357) or visit their website to submit an official complaint form at http://www.insurance.ca.gov/contact-us/

SBA Disaster Assistance Information

The information below is meant to provide a general overview of the type of assistance the SBA can provide to businesses who need business loans after a disaster has occurred. This information does not pertain to any specific disaster declaration.

Post Disaster Business Loans

What Types of disaster loans are available?

- Home disaster loans: Loans to homeowners or renters to repair or replace disaster-damaged real estate or personal property owned by the victim. Renters are eligible for their personal property losses, including automobiles.
- Business physical disaster loans: Loans to businesses to repair or replace disaster-damaged property owned by the business, including real estate, inventories, supplies, machinery and equipment. Businesses of any size are eligible. Private, non-profit organizations such as charities, churches, private universities, etc., are also eligible.
- Economic injury disaster loans (EIDLs): Working capital loans to help small businesses, small agricultural cooperatives, small businesses engaged in aquaculture and most private, non-profit organizations of all sizes meet their ordinary and necessary financial obligations that cannot be met as a direct result of the disaster. These loans assist through the disaster recovery period.
- EIDL assistance is available only to entities and their owners who cannot provide for their own recovery from non-government sources, as determined by the SBA.

What are the Credit Requirements?

- Credit history: Applicants must have a credit history acceptable to SBA.
- Repayment: Applicants must show the ability to repay all loans.
- Collateral: Collateral is required for physical loss loans of more than $14,000 and all EIDL loans over $5,000. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral, but requires you to pledge what is available.

What are the interest rates?
By law, interest rates depend on whether each applicant has credit available elsewhere. When SBA determines the applicant does not have sufficient funds or other resources or the ability to borrow from non-government sources, the applicant does not have credit available elsewhere. An applicant whom the SBA determines to have the ability to provide for his or her own recovery is deemed to have credit available elsewhere. Interest rates are fixed for the term of the loan. The interest rates were listed on the SBA website as of 2013. Please check www.sba.gov/content/disaster-loan-program for the latest rates:

	No Credit Available Elsewhere	Credit Available Elsewhere
Home Loans	2.500%	5.000%
Business Loans	4.000%	6.000%
Non-Profit Organizations	3.000%	3.625%
Economic Injury Loans	4.000%	N/A
Economic Injury Loans – Non-Profits	3.000%	N/A

What are loan terms?
The law authorizes loan terms up to a maximum of 30 years. However, the law restricts businesses with credit available elsewhere to a maximum three-years term. SBA sets the installment payment amount and corresponding maturity based upon each borrower's ability to repay.

What are the Loan Amount Limits?

- Home loans – SBA regulations limit home loans to $200,000 for the repair or replacement of real estate and $40,000 to repair or replace personal property. Subject to these maximums, loan amounts cannot exceed the verified uninsured disaster loss.
- Business loans – The law limits business loans to $2,000,000 for the repair or replacement of real estate, inventories, machinery, equipment and all other physical losses. Subject to this maximum, loan amounts cannot exceed the verified uninsured disaster loss.
- Economic Injury Disaster Loans (EIDL) – The law limits EIDL(s) to $2,000,000 for alleviating economic injury caused by the disaster. The actual amount of each loan is limited to the economic injury determined by SBA, less business interruption insurance and other recoveries up to the administrative lending limit. SBA also considers potential contributions that are available from the business and/or its owner(s) or affiliates.
- Business loan ceiling – The $2,000,000 statutory limit for business loans applies to the combination of physical, economic injury, mitigation and refinancing, and applies to all disaster loans to a business and its affiliates for each disaster. If a business is a major source of employment, SBA has the authority to waive the $2,000,000 statutory limit.

What Restrictions are there on loan eligibility?

- Uninsured losses: Only uninsured or otherwise uncompensated disaster losses are eligible. Any insurance proceeds that are required to be applied against outstanding mortgages are not available to fund disaster repairs and do not reduce loan eligibility. However, any insurance proceeds voluntarily applied to any outstanding mortgages do reduce loan eligibility.
- Ineligible property: Secondary homes, personal pleasure boats, airplanes, recreational vehicles and similar property are not eligible, unless used for business purposes. Property such as antiques and collections are eligible only to the extent of their functional value. Amounts for landscaping, swimming pools, etc., are limited.
- Noncompliance: Applicants who have not complied with the terms of previous SBA loans are not eligible. This includes borrowers who did not maintain flood and/or hazard insurance on previous SBA or federally insured loans.

Is there help with funding mitigation improvements?

If your loan application is approved, you may be eligible for additional funds to cover the cost of improvements that will protect your property against future damage. Examples of improvements include retaining walls, seawalls, sump pumps, etc. Mitigation loan money would be in addition to the amount of the approved loan but may not exceed 20 percent of total amount of disaster damage to real estate and/or leasehold improvements, as verified by SBA to a maximum of $200,000 for home loans. It is not necessary for the description of improvements and cost estimates to be submitted with the application. SBA approval of the mitigating measures will be required before any loan increase.

Is there help available for refinancing?

- SBA can refinance all or part of prior mortgages that are evidenced by a recorded lien when the applicant (1) does not have credit available elsewhere; (2) has suffered substantial uncompensated disaster damage; (40 percent or more of the value of the property); and (3) intends to repair the damage.
- Homes: Homeowners may be eligible for the refinancing of existing liens or mortgages on homes, in some cases up to the amount of the loan for real estate repair or replacement.
- Businesses: Business owners may be eligible for the refinancing of existing mortgages or liens on real estate, machinery and equipment, in some cases up to the amount of the loan for the repair or replacement of real estate, machinery and equipment.

What if I decide to relocate?

You may use your SBA disaster loan to relocate. The amount of the relocation loan depends on whether you relocate voluntarily or involuntarily. If you are interested in relocation, an SBA representative can provide you with more details on your specific situation.

Are there insurance requirements for loans?

To protect each borrower and the agency, SBA may require you to obtain and maintain appropriate insurance. By law, borrowers whose damaged or collateral property is located in a special flood hazard area must purchase and maintain flood insurance for the full insurable value of the property for the life of the loan.

What information must I submit for a disaster loan?
Submit a completed loan application and a signed and dated IRS form 8821 giving permission for the IRS to provide the SBA your tax return information. To process your application, the SBA needs current financial information such as a personal financial statement, a current profit-and- loss statement, balance sheet and a list of debts.

Can I use the disaster loan to expand my business?
The disaster loan helps restore property to pre-disaster condition and, under certain circumstances, protects the structure from future disasters. It cannot upgrade or expand a business unless required by local building codes.

I already have a mortgage on my business. Can the SBA refinance my mortgage?
The SBA can refinance all or part of a previous mortgage in some cases when the applicant does not have credit available elsewhere, has suffered uninsured damage (40 percent or more of the property value) and intends to repair the damage. SBA disaster loan officers can provide additional details.

How soon before I know I've been approved for a loan?
The sooner you return the completed loan application, the sooner the SBA can process it. The SBA tries to make a decision within 18 days. Make sure the application is complete. Missing information is a major cause of delays.

Is collateral required for these loans?
Physical loss loans of more than $14,000 and all EIDL loans of more than $5,000 must be secured to the extent possible. SBA will not decline a loan if there isn't enough collateral but requires you to pledge what is available. That usually consists of a first or second mortgage on the damaged business real estate or best available if you don't have real estate.

Should I wait for my insurance settlement before I file my loan application?
No. Don't miss the filing deadline by waiting for an insurance settlement. Final insurance information can be added when a settlement is made. The SBA can approve a loan for the total replacement cost, but any insurance proceeds that duplicate SBA's loan must be applied to your SBA loan.

How may I use an Economic Injury Disaster Loan?
The loan provides working capital for disaster-related needs until your business or private, non-profit organization recovers. You may request an EIDL for the amount of economic injury but not in excess of what your business or private, non-profit organization could have paid if the disaster had not occurred. EIDL loans cannot refinance long-term debts or provide working capital needed before the disaster. EIDL loans do not replace sales or lost profits.

Must I submit a personal financial statement with my loan application?
Yes. The SBA must review a financial statement for each owner and one for each partner, officer, director and stockholder with 20 percent or more ownership. The SBA requires the principals of the business to personally guarantee repayment of the loan and in some instances to secure the loan by pledging additional collateral.

Are there consequences for misuse of the loan proceeds?
Yes. The penalty for misusing disaster funds is immediate repayment of one-and-a-half times the original amount of the loan.

Is there a minimum monthly payment? When is the first payment due?
The SBA does not have a minimum monthly payment. Payments vary depending upon income and expenses, size of family and other circumstances that may affect your repayment ability. Generally, the first payment is not due until five months after the date of the loan, but this term may be extended to a year in most cases upon request.

Where can I get more information about SBA loans?
For more information, contact SBA's Disaster Assistance Customer Service Center by calling (800) 659-2955, emailing *disastercustomerservice@sba.gov*, or visiting SBA's web site at *www.sba.gov*. Hearing impaired individuals may call (800) 877-8339. Applicants may also apply online using the Electronic Loan Application (ELA) via SBA's secure Web site at *https://disasterloan.sba.gov/ela*.

Farm Service Agency Disaster Assistance (Agricultural Businesses)

The Farm Service Agency (FSA) provides assistance for natural disaster losses resulting from drought, flood, fire, freeze, tornadoes, pest infestation and other calamities. The FSA provides a substantial number of assistance programs; the following provides a general overview of the available programs.

For more details on each program, please visit the FSA website at www.fsa.usda.gov and click on Disaster Assistance Programs.

Prerequisite to assistance

- Insurance coverage: Insurance coverage through USDA's Risk Management Agency (RMA).
  http://www.rma.usda.gov/
  OR
- **Noninsured Crop Disaster Assistance Program (NAP):** Provides financial assistance to producers of non-insurable crops when low yields, loss of inventory or prevented planting occurs due to natural disasters.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=nap

Assistance to get your farm up and running after a disaster

- ***Emergency farm loans*:** Producers can borrow up to 100 percent of actual production or physical losses, to a maximum amount of $500,000.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=efl

- ***Emergency Conservation Program (ECP):*** Provides emergency funding and technical assistance for farmers and ranchers to rehabilitate farmland damaged by natural disasters and for carrying out emergency water conservation measures in periods of severe drought.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=ecp

Assistance for crop losses

- ***Supplemental Revenue Assistance Payments (SURE) Program***: Provides financial assistance for crop production and/or quality losses due to a natural disaster.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=sure
- ***Tree Assistance Program (TAP):*** Provides financial assistance to qualifying orchardists to replace eligible trees, bushes and vines damaged by natural disasters.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=tap
- ***Emergency Forest Restoration Program (EFRP):*** Provides payments to eligible owners of nonindustrial private forest (NIPF) land in order to carry out emergency measures to restore land damaged by a natural disaster.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=ecp

Assistance for livestock losses

- ***Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish (ELAP):*** Provides emergency relief to producers of livestock, honey bees and farm-raised fish. Covers losses from disaster such as adverse weather and wildfires not covered by any other disaster program.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=elap
- ***Livestock Indemnity Program (LIP):*** Provides assistance to producers for livestock deaths that result from disaster.
  http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lip

IRS Tax Relief

Special tax law provisions may help taxpayers and businesses recover financially from the impact of a disaster, especially when the federal government declares their location to be a major disaster area. Depending on the circumstances, the IRS may grant additional time to file returns and pay taxes. Both individuals and businesses in a federally declared disaster area can get a faster refund by claiming losses related to the disaster on the tax return for the previous year, usually by filing an amended return. More information can be found here: www.irs.gov/Businesses/Small-Businesses-%26-Self-Employed/Disaster-Assistance-and-Emergency-Relief-for-Individuals-and-Businesses-1

For Businesses

Publication 2194, Disaster Resource Guide for Individuals and Businesses (PDF)
Publication 2194 is a Disaster Losses Kit to help individuals claim casualty losses on property that was destroyed by a natural disaster. The kit contains tax forms needed to claim a casualty loss. It also answers common questions like how to extend the time you need to file, how you can receive free tax services and how to identify which disaster losses to claim. www.irs.gov/pub/irs-pdf/p2194.pdf

Crop Insurance and Crop Disaster Payments - Agriculture Tax Tips
This section offers helpful tax tips including whether crop insurance and crop disaster payments are taxable. www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Crop-Insurance-and-Crop-Disaster-Payments-Agriculture-Tax-Tips

Disaster Planning Video Presentations:

- Disaster Loss Deductions
- IRS Disaster Assistance
- Planning for Business Continuity after a Disaster
- Reconstructing Records after a Disaster

For Individuals

FAQs for Disaster Victims
This section provides current information on disaster relief and frequently asked questions. The Hurricane Katrina FAQs are now listed separately from the general FAQs, which are applicable to any disaster.

Reconstructing Your Records
Reconstructing records after a disaster may be essential for tax purposes, getting federal assistance or insurance reimbursement. Records that you need to prove your loss may have been damaged or destroyed in a casualty. While it may not be easy, reconstructing your records may be essential.

Lease FAQ Regarding Leased Business Space After a Disaster

The following questions are designed to provide general information for small businesses that rent their space from a landlord and for landlords who rent space to small businesses. Generally, the rights of both the tenant and the landlord will be determined by the provisions of your lease. There is no one single "standard" form of lease, even though many leases are based on preprinted lease forms. The provisions of a lease that covers these matters can vary significantly, even for different leases in the same building.

A legal professional will need to check the provisions of your lease carefully to answer these questions for your particular case. The following is only general advice for tenants and landlords regarding property that is damaged or unusable as a result of destruction relating to the disaster. The advice is based on general principles of state law in California and some of the form leases commonly used in California and should not be relied upon without first consulting an attorney.

What happens if the building or property that is leased is destroyed? Does the lease automatically terminate? Does the tenant have to pay rent?
To answer these questions, you will need to first check your lease to see if there is a specific written provision setting forth what happens if the leased premises are totally destroyed or partially destroyed. Most business leases include this type of provision, and these provisions may include definitions that will help you to determine whether your building has been totally destroyed or partially destroyed. If your lease contains such written

provisions, those written provisions will govern and should provide the answer to your question.

If your lease does not contain specific provisions setting forth what happens when the leased premises are totally or partially destroyed, or if you do not have a written lease, then this question will be answered based on general provisions of state law.

Generally, unless a lease contains specific provisions to the contrary, a lease automatically terminates only when the leased premises are "totally destroyed." The critical factor is whether the leased premises are "totally destroyed" or only "partially destroyed." Determining whether the premises are totally or partially destroyed is a fact determination made on a case-by-case basis. In most situations, the lease will terminate only if the premises are "totally unfit for use."

Whether the property is totally unfit for use will depend on several factors. The primary factor is the extent of damage. For example, a building that burns to the ground or is completely submerged by floodwaters would likely be considered totally destroyed. But if the damage is limited (for example, if only the roof is damaged or floodwater only damaged the floor or carpet of a leased building), then the tenant probably cannot terminate the lease on the basis of that damage.

Another factor is the landlord's ability to repair the premises. If the landlord can repair the damage in a reasonable period of time, then the tenant may not be able to terminate the lease. The length of time that a landlord has to make repairs will depend on the circumstances and may hinge on the term of the lease. If a lease is for a term of 10 years and there are still eight years remaining on the lease, it might be reasonable for the landlord to take 30 or 60 days to make repairs. But if the lease is for a shorter term or if there are only several months left on the lease, then 30 or 60 days would not be reasonable and the tenant should be entitled to terminate the lease.

In some cases, it is necessary for the tenant to provide notice before terminating the lease. Once the lease is terminated, the tenant is relieved of any obligation to pay rent. But until the lease is terminated, the tenant must continue to pay rent according to the terms of the lease. In some cases, the tenant may be able to pay an adjusted rent until necessary repairs are made, but the need for repairs does not automatically release the tenant from the obligation to pay rent.

Is the landlord obligated to rebuild the building?

Again, it is important to refer to your lease, as commercial leases generally have provisions dealing with the landlord's obligations to rebuild. Absent an express provision in the lease, the answer generally depends on the severity of the damage. If the leased premises are partially damaged or rendered partially unusable for the purpose for which it was leased, then the landlord is obligated to make all necessary repairs at its expense.

If the building is so seriously damaged that the landlord decides to demolish or rebuild it, or in the event the premises are totally damaged or rendered wholly unusable, the landlord may terminate the lease rather than rebuilding.

Does the tenant have the right to terminate the lease if the landlord plans to rebuild the building?
Although the law provides the tenant with a right to terminate the lease if the premises are partially destroyed, commercial leases almost always have specific provisions which supersede the statute. Tenants should consult their own lease.

Can the landlord terminate the lease if the premises are partially destroyed?
A landlord can terminate a lease when (1) the lease itself gives the landlord a right to terminate when a disaster renders the premises partially unusable, or (2) the landlord and tenant mutually agree to terminate the lease.

If the landlord terminates the lease, is the tenant entitled to receive its security deposit?
Details regarding the refund of the security deposit will be controlled by the terms of the lease.

Is the landlord required to repair and restore the tenant's furniture and equipment?
Generally, the landlord is not required to repair any damage to the tenant's furniture and/or furnishings or any fixtures, equipment, improvements or appurtenances that are removable. This damage should be covered by the tenant's insurance company.

Is the tenant obligated to pay rent during the time that the landlord makes repairs on the building?
Again, this depends on the severity of the damage. Determining whether premises are totally or partially destroyed is a fact determination made on a case-by-case basis. To be considered "totally destroyed," the premises must cease to be fit for use. Extreme flood or storm damage is likely to be considered "total destruction," while minor flood or storm damage is most likely only a partial destruction.

Rent reductions will be governed by the terms of the lease. In any case, before paying less than full rent, the tenant should always talk to the landlord to reach a mutual agreement on any rent reduction. If the landlord and the tenant cannot agree on the appropriate amount of the reduction, then the tenant must sue and have a court decide the amount.

In the event the premises are totally damaged or rendered wholly unusable, the lease terminates with no further liability on the part of the tenant or the landlord. The tenant does not have to continue rent payments from the time of the destruction.

Once the landlord completes the restoration of the premises, the tenant may still have work to do to repair installations, phones, office equipment, etc. The tenant will be obligated to pay rent during this time period, but may be able to cover the cost of that rent from proceeds of the tenant's business interruption insurance policy.

Note: commercial leases have specific provisions governing rent abatement in the event of destruction of the premises, and these provisions dictate the rights of the landlord or tenant. Refer to your lease for the terms that apply to your situation.

How long can the landlord take to repair the premises?
If the landlord elects or is required to repair the premises, the landlord must do so reasonably expeditiously, subject to delays due to adjustment of insurance claims, labor troubles and other causes beyond the landlord's control.

Can the tenant withhold rent if the landlord has failed to repair the premises in a timely manner after the disaster?
Generally, a tenant remains obligated to pay rent if the premises are usable and are not totally destroyed or made unusable, as discussed above. Thus the requirement to pay rent is not generally dependent on whether the landlord makes timely repairs, unless the tenant decides to terminate the lease on this basis. The tenant may terminate the lease, if the landlord fails to timely repair the premises in a timely manner. In that case, once the lease is terminated, the tenant is no longer required to pay rent.

If the landlord elects to terminate the lease, is the landlord obligated to help the tenant find alternative space or reimburse the tenant for related costs?
No, unless the lease contains a specific provision that provides for this.

Can the landlord rent the premises to someone else while the tenant is gone?
No, a landlord cannot rent the premises to another party unless the lease has been terminated. The landlord has an obligation to make the leased space available to the tenant as long as the lease is in effect. The landlord cannot impair the tenant's "peaceful possession" of the property unless there has been a default by the tenant and the lease has been terminated.

Can the building be condemned?
Yes. Governmental agencies that have jurisdiction over a building may order it to be condemned if the building is not suitable for safe occupancy. Generally, either FEMA or the local building inspection department is the agency that has jurisdiction to determine that a building cannot safely be occupied.

If the building is condemned, will the property owner be paid for the loss?
When the government condemns property based on a finding that it is no longer habitable or safe for occupancy, the government is not responsible for paying for the loss of the property. Generally, the government is only required to pay for the loss of the property when the property is taken by the government for a public use.

Condemnation of property as unsafe generally is not a "taking" for public use. To the extent the owner can recover the lost value of the condemned property, the property owner might be able to recover all or part of the value of the property from the owner's insurance (depending on the terms of that insurance) or from FEMA or other relief agencies

Preparedness Begins at Home

Take the time to plan for your family's preparedness before creating the plan for your business. Family and home life come first, and they will be your first concern after a major disaster occurs. Do this step first, and you will be prepared to completely focus on your business preparedness and recovery plan.

Encourage your employees to make their home preparedness plans as well. Set an example for them by showing them yours, and ask them to create one for their families as well. You can even make this part of your "orientation" process when hiring new employees. Make planning part of your work culture from the very beginning.

Finally, **prepare to shelter at your place of business.** It will be YOUR responsibility to make sure not only yourself, but also your employees can survive a major disaster. If one were to occur during business hours, make sure you are ready to shelter in place. Plan ahead and buy enough survival materials to account for anyone who might be present should a disaster occur. You could also make a Disaster Survival Kit for everyone and have some extras on hand just in case. Also, Train as many individuals as possible in CPR and first aid.

Your Disaster Survival Kit could include: a durable flashlight, a portable radio, extra batteries, first aid supplies, nonperishable food, bottled water, a basic tool kit, plastic sheeting and garbage bags, cash, and a digital camera to take pictures of the property damage after the event.

Recovery

Take care of yourself first

You have just been through a disaster that has turned your life upside down. A disaster can do damage beyond the obvious physical destruction. The hidden enemy could be emotional stress and anxiety. Stay calm and collected and remember that cooler heads will prevail in times of adversity. The Red Cross and FEMA suggest the following steps you can make to relieve any tensions or stress:

- Discuss and communicate your problems
- Rest often and eat well
- Set a manageable schedule
- Watch for signs of stress
- Seek help if you cannot shake feelings of anxiety or stress

Stay healthy

The damage to your business or property from a disaster can cause various potential dangers to your health. The building's foundation could have become weakened, the electrical system may have shorted out and flooding or rain may have left behind things that can make you very sick. For these reasons, you should avoid the cleanup unless you know what you are doing or until you know it is safe to do so.

FEMA and the Red Cross suggest that infants, pregnant women and people with health problems should avoid the damaged or flooded property until cleanup is complete. In

addition, confirm that the water is safe at your property before you drink it or wash anything with it.

The following are some recommended procedures from the Department of Labor to keep you safe and healthy if you attempt cleanup efforts yourself:

Health tips

- Take frequent rest breaks when lifting heavy objects. Avoid overexertion, and practice good lifting techniques. To help prevent injury, use teams of two or more to move bulky objects; avoid lifting any materials that weigh more than 50 pounds per person, and use proper automated lifting assistance devices if practical.
- When working in hot environments, have plenty of drinking water available, use sunscreen and take frequent rest breaks. Wear light-colored, loose-fitting clothing.
- Be sure a first-aid kit is available to disinfect any cuts or abrasions. Protect open cuts and abrasions with waterproof gloves or dressings.
- Wash your hands often during the day, especially before eating, drinking or applying cosmetics.

General precautions

- Use a wooden stick or pole to check flooded areas for pits, holes and protruding objects before entering.
- Ensure that all ladders and scaffolds are properly secured prior to use.
- Conduct a preliminary worksite inspection to verify stability before entering a flooded or formerly flooded building or before operating vehicles over roadways or surfaces. Don't work in or around any flood-damaged building until it has been examined and certified as safe for work by a registered professional engineer or architect.
- Washouts, trenches, excavations and gullies must be supported or their stability verified prior to worker entry. All trenches should be supported (e.g., with a trench box). If no support is available, the trench must be sloped at no less than a 1:1 (45°) angle for cohesive soil and 1:11/2 (34°) angle for granular soils including gravel, sand and loamy sand or submerged soil or soil from which water is freely seeping.
- Establish a plan for contacting medical personnel in the event of an emergency.
- Report any obvious hazards (downed power lines, frayed electric wires, gas leaks or snakes) to appropriate authorities.
- Use fuel-powered generators outdoors. Do not bring them indoors. Use life-vests when engaged in activities that could result in deep water exposure.
- Use extreme caution when handling containers holding unknown substances or known toxic substances (for example floating containers of household or industrial chemicals). Contact the Environmental Protection Agency for information on disposal at the National Response Center (1- 800-424-8802).
- Do NOT use improvised surfaces (e.g., refrigerator racks) for cooking food or for boiling water to avoid exposure to heavy metals.

Clothing and personal protective equipment

- Always wear water tight boots with steel toes and insoles, gloves, long pants and safety glasses during cleanup operations; sneakers should NOT be worn because they will not prevent punctures, bites or crush injuries. Wear a hardhat if there is any danger of falling debris.
- Wear a NIOSH-approved dust respirator if working with moldy building materials or vegetable matter (hay, stored grain or compost).
- When handling bleach or other chemicals, follow the directions on the package; wear eye, hand and face protection as appropriate, and have plenty of clean water available for eye wash and other first-aid treatments.

Electrical hazards

- Do NOT touch downed power lines or any object or water that is in contact with such lines.
- Treat all power lines as energized until you are certain that the lines have been de-energized.
- Beware of overhead and underground lines when clearing debris. Extreme caution is necessary when moving ladders and other equipment near overhead power lines to avoid inadvertent contact.
- If damage to an electrical system is suspected (for example, if the wiring has been under water, you can smell burning insulation, wires are visibly frayed or you see sparks), turn off the electrical system in the building and follow lockout/tag out procedures before beginning work. Do not turn the power back on until electrical equipment has been inspected by a qualified electrician.
- When using a generator, be sure that the main circuit breaker is OFF and locked out prior to starting the generator. This will prevent inadvertent energization of power lines from back feed electrical energy from generators and help protect utility line workers from possible electrocution.
- Be aware that de-energized power lines may become energized by a secondary power source such as a portable backup generator.
- Any electrical equipment, including extension cords, used in wet environments must be marked, as appropriate, for use in wet locations and must be undamaged. Be sure that all connections are out of water.
- All cord-connected, electrically operated tools and equipment must be grounded or double insulated.
- Ground-fault circuit interrupters (GFCIs) must be used in all wet locations. Portable GFCIs can be purchased at hardware stores.

Fire protection

- Immediately evacuate any building that has a gas leak until the leak is controlled and the area ventilated.
- Be sure an adequate number of fire extinguishers are available and re-evaluate the fire evacuation plan.
- Be sure all fire exits are clear of debris and sand bags.

Hiring a Contractor

When hiring a contractor, watch out for scam artists. You should be especially wary of phone or door-to-door solicitations that promise to speed up the insurance or building process and those who ask for large cash deposits or advance payments in full.

Consumers should also be aware that some rip-off artists may pretend to be employed by FEMA or other agencies. Some traits of scams or con artists can include:

- ***Lack of proper identification***: A FEMA or SBA shirt or jacket is not absolute proof of someone's affiliation with an agency. Ask to see the laminated photo identification card; if they don't have it, they are probably not official.
- ***Going door-to-door***: Persons going door-to-door to damaged homes or phoning victims claiming to be building contractors could be frauds. If callers solicit personal information such as Social Security or bank account numbers, they are not official. FEMA inspectors may come to your neighborhood, but all FEMA inspectors will have proper laminated photo identification. Remember, FEMA and SBA inspectors never charge applicants for disaster assistance or for inspections. If in doubt, do not give out information.
- ***Charging fees to be put on a list or fees to have forms filled out***: Some scammers have asked for upfront money to be put on a list or demanded fees to fill out the disaster loan application.
- ***Offers to increase the amount of your disaster damage assessment:*** This is not wise and is a sure sign of a scam.
- ***Asking for cash upfront***: Under no circumstances are FEMA and other agency representatives allowed to accept money. FEMA inspectors assess damage but do not hire or endorse specific contractors.

If you suspect a repair rip-off, call the California Department of Consumer Affairs Hotline at **(800)-952-5210** for more information about filing a complaint.

If you suspect fraud, waste or abuse involving FEMA disaster assistance programs, report it to FEMA's Inspector General's Office at (800) 323-8603.

In addition to taking precautions to prevent getting ripped-off, the following will assist you in hiring a contractor to get your business up and running:

- ***Check the license*** (see attachment)
- ***Get a written estimate.*** Compare services and prices before making a final decision. Also, read the fine print. Some contractors charge a fee for a written estimate, which is often applied to the cost of subsequent repairs they make.
- ***Check references.*** Contractors should be willing to provide names of previous customers. Call several former customers who had similar work done to make sure they were satisfied with the job.

- ***Ask for proof of insurance***. Make sure the contractor carries general liability and workers' compensation insurance. If the contractor is not insured, you may be liable for accidents that occur on the property.
- ***Use reliable, licensed contractors***. Call the local building inspector, Better Business Bureau, Home Builders Association, Building Trade Council or the local Chamber of Commerce to see if any complaints have been filed against the contractor.
- ***Insist on a written contract***. A complete contract should clearly state all tasks to be performed, all associated costs and the payment schedule. Never sign a blank contract or one with blank spaces. Make sure the contract clearly states who will apply for the necessary permits or licenses. Have a lawyer review the contract if substantial costs are involved, and keep a copy for your records.
- ***Get guarantees in writing***. Any guarantees made by the contractor should be written into the contract. The guarantee should clearly state what is guaranteed, who is responsible for the guarantee and how long the guarantee is valid.
- ***Obtain a local building permit, if required***. Permits may be required for site work other than demolition and for reconstruction. Contact your local government for permit information.
- ***Make final payments when the work is completed***. Do not sign completion papers or make the final payment until the work is completed to your satisfaction. A reputable contractor will not threaten you or pressure you to sign if the job is not finished properly.
- ***Pay by check***. Avoid on-the-spot cash payments. The safest route is to write a check to the contracting company. A reasonable down payment is 30 percent of the total cost of the project, to be paid upon initial delivery of materials. Federal law gives consumers a three-day "cooling off" period for unsolicited door-to-door sales of more than $25.
- ***If necessary, cancel a contract in the proper manner***. This should be done within three business days of signing. Be sure to follow the procedures for cancellation that are set out in the contract. Send the notification by registered mail with a return receipt to be signed by the contractor.

Construction Contracts

- Get a written contract.
- Specify the start and finish dates to protect your interests, but realize that bad weather, unavailable materials or other problems may affect these dates.
- Include pay schedules and itemized prices. If you want special materials such as hardwood trim or top grade lumber, be sure this is specified.
- If possible, have a lawyer review all contracts and related documents before you sign.
- Don't make a large first payment, and don't pay for the project in full until work has been completed and inspected.
- Clearly state any warranties or guarantees on the work.
- Be sure you and the contractor sign the agreement, with each of you keeping original copies.

Business Continuity

The Center for Organizational Studies at the University of Wisconsin-Green Bay examined what sets apart small businesses that recover from those that fail after being affected by a disaster. The research report, written by Daniel J. Alesch, James N. Holly, Elliott Mittler and Robert Nagy, looks at the factors and variables that interact in complex ways to affect small business recovery. Five variables were found to be critical to long-term survival of an organization after a natural disaster:

- ***The disaster's impact on the organization's clientele.*** If the organization's clientele is displaced from the area following the disaster, it is much more difficult for the organization to survive, because it will have to completely rebuild its client base.
- ***The availability of convenient substitute goods or services.*** If substitute goods or services are easily available while the organization is shut down after a natural disaster, it will be more difficult for the organization to maintain its client base.
- ***Pre-disaster major trends in the organization's industry and the individual organization's position in relation to those trends.*** If the organization is in a declining industry, it is less likely to recover, especially if the organization's business is already declining.
- ***The extent of financial resources lost by the organization.*** The fewer financial resources the organization has to rebuild, relocate or take other appropriate action, the less likely it is to survive.
- ***The owner/operator's ability to adapt to the new business environment.*** If the owner/operator is unable to appreciate the change in the business environment and make the necessary changes, the organization is less likely to survive.

Reacting to a natural disaster or emergency not only means ensuring the immediate safety of employees, but also planning how the business will continue to function in the aftermath. Limiting the amount of time your business is closed after an emergency situation is crucial; according to a 2006 survey by Harris Interactive, about 51 percent of companies said their customers would tolerate only a few hours of unplanned down time.

After you've made plans to ensure the safety of your employees, the following advice can help keep your business operating and meeting your customer's needs in the wake of a disaster.

Getting organized

Contact all employees to provide them with a status report and assign tasks. As needed, appoint liaisons from your office to work with each of the following entities:

- Building management
- Health department
- Emergency management agencies
- Other governmental agencies
- Utility companies, including electric, gas, water, phone
- Insurance agent

- Banker
- Key vendors
- Post office
- Other vital services

Contact vendors/suppliers to confirm their emergency response plan procedures. Establish a succession of management for the company. Determine who will manage the company if key leaders are unavailable. Communication is the key to maintaining clients and customers. Let your customers/vendors know your company's status and when your business will assume normal operations. Be prepared to use alternate vendors for essential supplies and equipment depending on how much they were impacted by the disaster.

If your property is safe to enter, gather up all available paper records and begin the process of assessing damage, sorting and prioritizing restoration. Paper records damaged by water will begin to deteriorate within two to three hours; mold, fungal and bacterial growth will occur within 24 hours. Specific procedures must be followed in order to properly dry or freeze documents. (Freezing will preserve paper for up to six years for later drying.) If necessary, access extra checks stored off-site. Contact your bank for replacement checks.

Establish an emergency communication system to help your business communicate with employees, customers and vendors. This could involve setting up an emergency hotline and recorded message or arranging for a forwarding number. Keep in mind that after a disaster, it is often easier to make outgoing calls than to receive incoming ones. Therefore, it may be necessary to designate a contact outside the disaster zone who can act as a clearinghouse for information.

Post updates on social media sites, your business's website and any other resources to communicate with your business network.

Alternative location

Determine alternate locations for your business to operate if you are displaced from your current building. This could mean enabling employees to work from home or finding an alternate location for your office. Depending on the size and location of your business, possibilities include hotels, motels, trailers, recreational vehicles, mobile food carts, space in other companies or firms with which you are associated, space in a satellite office, other suitable space in your existing building or space in your home.

If necessary, contact the post office about an alternate delivery location. Post a sign at your old location directing people to your temporary location. Consider advertising that temporary location in the local newspaper, and encourage customers to contact you to touch base. Be sure that anyone answering the phone informs all callers of your new location. Communicate all news and changes to your business on your website and social media.

Equipment

If necessary, contact vendors to lease equipment or permanently replace damaged items (computers, network servers, printers, fax machines, copier, postage meter, desks, chairs, etc.). If your computers have been damaged from the disaster, get professional assistance

to help in the recovery and repair of your computer system. Make it clear that your top priority is the data, not the equipment itself. A reputable repair shop can clean and test the system and, if necessary, use a package such as Norton Utilities to recover your data. More likely than not, the data stored on the hard drive can be recovered.

Contracts FAQ

If my business was physically destroyed or damaged by the disaster, do my contracts for goods and services need to be performed?
It depends. A party will be relieved from its obligation to supply goods or perform services if, without the party's fault, performance of the contract has become impossible. However, the impossibility must be "objective" in the sense that no one can perform the contract. For example, a contract to clean a house that was destroyed would be impossible to perform. If reasonable alternative means for performance of the contract are available, impossibility likely will not apply. However, other legal doctrines, as described below, may apply.

My business has not incurred damage; however, my business has deteriorated substantially after the disaster. Do my contracts for goods and services need to be performed?
Yes. Typically, impossibility excuses a party's performance only when the destruction of the subject matter of the contract or the means of performance renders performance impossible. In addition, a party may be excused from performing its contractual obligations if performance is found to be impracticable. If a party has other ways to perform the obligations and only one option is precluded, that is not generally considered impracticable, even if the remaining option is more burdensome or more expensive.

Does a "force majeure" clause in a contract that my business has with another party automatically relieve the other party of its liability under the contract?
No. A "force majeure" clause is a provision in a contract that excuses a party to the contract from performing because of the occurrence of an event beyond the party's control. The other party may or may not be liable depending on the provisions of the force majeure clause. A party may excuse itself from liability under a force majeure clause only by showing that the event preventing its performance was contemplated by the force majeure clause.

A force majeure clause may be drafted broadly (to include a few events such as an "act of war" and a catch-all phrase such as "or other events beyond its control" or "unavoidable causes") or more narrowly (listing the specific events that prevent performance and including only a narrow catch-all). Even if the contract does not contain a force majeure clause, or if the clause is not broad enough to include the events surrounding the disaster, it is possible that a contract will not be enforced due to "impossibility" and related doctrines discussed above.

If the business owner or key employee is incapacitated, does the business still need to perform contracts of personal service?
No. If the primary purpose of a personal services contract is to permit a specified person to perform in a certain manner, there is an implied intent by the parties to hold each other

liable only if the health and life of that person permits continued performance. To be covered under this general rule, the act or acts to be performed must be ones that can be performed only by the particular individual named in the contract.

What happens to advances received from third parties (or given to third parties) where the performance of the contract is excused?
If goods or services are not supplied, advances must be returned.

What if I can no longer deliver or accept goods under my contracts? Can someone else perform on my behalf?
Absent a provision in the contract prohibiting assignment, a party may be able to delegate or assign its duties or rights under a contract to someone else unless the other party has a substantial interest in having the original promisor perform the acts required by the contract. The rights of the buyer or seller also may be assigned unless the assignment would significantly change the duty of the other party, increase the burden or risk imposed on him by the contract or significantly impair the chance of obtaining return performance. Parties delegating or assigning duties will still be liable under the original contract. Many commercial contracts provide that duties of the buyer and seller cannot be delegated or assigned without the prior written consent of the other party.

Liability for damaged property

What if goods that were paid for by the buyer were destroyed before they could be delivered?
In the absence of an agreement to the contrary, risk of loss of goods subject to sale passes in the following manner: (1) if a contract requires physical delivery of identified goods to a specific destination, title passes on tender of the goods at that destination; (2) if the contract does not specify a place of delivery, title passes at the time and place of shipment; (3) if delivery is to be made without moving the goods, title passes at the time and place documents of title are to be delivered; and (4) if no documents of title are delivered, title passes at the time and place of contract. An insurance policy may cover damage to or destruction of the goods.

If I have equipment that was either leased or purchased on credit and is now destroyed or damaged, am I obligated to continue making payments on the equipment?
This question is usually governed by the terms of the specific contract, lease or credit agreement. In addition, the loss of equipment could be covered by an insurance policy. If the equipment was not covered by an insurance policy, most likely payments must continue to be made.

Is my business liable for damage to a customer's property caused by the disaster, flooding or looting? Is my dry cleaner or laundry business liable for damage to customers' clothing that was in the store? Is my jewelry/TV/watch repair store liable for damages to customers' property that was in the store for purposes of repair or maintenance?
Probably not. When the owner of personal property (a bailer) delivers the property to another (a bailee) for a particular purpose, with the understanding that the property must be returned to the owner, a bailment contract is formed. In each of the three situations above, a bailment relationship exists for the benefit of both parties because the bailee receives compensation and the bailer receives a service. Therefore, the bailee would only be liable to the bailer for property damaged through the bailee's negligence. Because the relevant legal standard is the bailee's negligence, it is necessary to consider how the property was damaged or lost and what actions the bailee took to protect it.

Destruction caused by the disaster or looting would not likely be a breach of the bailment contract. For instance, if the other jewelry stores carried customer merchandise out of the store and one jeweler did not, then that jeweler may be deemed negligent. In addition, if all dry cleaners, except one, locked the door when evacuating, that dry cleaner may be deemed negligent if a customer's clothes were stolen.

Lost checks or correspondence

If, for example, my insurance payment premium was due on April 30 and the payment was sent on April 27, would the policy cover damages that occurred on August 29, even if the payment was not received on the actual due date or was destroyed in the mail?
The posting rule (or "mailbox rule" in the U.S., or "postal rule" or "deposited acceptance rule") is an exception to the general rule of contract law in common law countries that acceptance takes place when communicated. The posting rule states, by contrast, that acceptance takes effect when a letter is posted. One rationale given for the rule is that the offeror nominates the post office as implied agent and thus receipt of the acceptance by the post office is regarded as that of the offeree. The "mailbox rule" or "postal acceptance rule" described above also applies to insurance premiums. Assuming that the insurance company requested that the premium be mailed and the premium payment was mailed in a timely manner, the insurance company is obligated to defend and indemnify the insured party.

What if a check was mailed but it was not received?
There are different alternatives depending on the type of check that was lost:

Checks payable from debtor's account: A bank customer has a right to stop payment of any item, including a check, drawn on that customer's account. After the stop payment is made, the debtor may issue a new check without bearing the risk of loss should the bank fail to stop the original check.
Certified checks: Since certified checks are drawn by the bank, the bank is not required to stop payment on lost or destroyed checks and issue replacements unless an indemnity

bond of twice the unpaid amount is posted. This serves to protect banks from potential double liability, should a holder of the lost check later present it for payment.

My business has a city contract on which we have performed, but payment on vouchers has been delayed due to the disaster. What action can I take to expedite processing and payment?

Many cities may experience delays in making various contract payments due to the effects of the disaster, a situation that has been impaired by the reallocation of resources. The first step is to try and contact your contract manager who should have the most current information about the agency's operations. If you cannot locate the contract manager or if he or she lacks information, you can contact the city government. If payment is still not forthcoming, you may be able to file a notice of dispute, depending on the procedures of the city government. You likely will need to continue to supply services during adjudication of any disputes or you will be considered in breach of contract.

Working with FEMA Post Disaster

Contracting with FEMA can be a great source of cash flow during the atypical time following a disaster. If your business is interested in contracting with FEMA/Dept of Homeland Security (DHS), it is recommended that you follow the following steps to become recognized as a registered federal contractor:

General information on contracting with FEMA

- Working with Department of Homeland Security (DHS) : Contains links to contracts, grants, small business opportunities, research and development and contacts.
- Disaster Response Registry: Contractors interested in performing debris removal, distribution of supplies, reconstruction and other disaster or emergency relief activities are requested to register in the Central Contractor Registration (CCR). All contractors are required to be registered in the CCR prior to receiving any contract award from DHS-FEMA. (http://www.ccr.gov/)
    - Section 697 Debris Removal Contractors: Register your company info and resource capabilities
- The Industry Liaison (IL) Program is committed to establishing strategic relationships with industry partners and stakeholders with access to vendors/contractors; serving as an industry advocate; and acting as the liaison between vendors and the program offices. The IL Program is the portal for all vendors seeking to do business with FEMA. Additionally, small business vendors are routed to the FEMA Small Business Analyst for notification, support and processing. During a disaster, the IL Program has created a process to ensure that information about your company's products or services is routed as supplemental market research to the appropriate FEMA contracting and acquisition professionals. Please follow the steps listed below to ensure your company's information is captured.

STEP ONE

GET YOUR DUNS NUMBER FROM DUN & BRADSTREET:

Obtain your Data Universal Numbering Systems (DUNS) number. Call Dun & Bradstreet (D&B) at (866) 705-5711 or register online at http://fedgov.dnb.com/webform

STEP TWO

REGISTER YOUR COMPANY IN THE CENTRAL CONTRACTOR REGISTRATION (CCR):

The Central Contractor Registration (CCR) System is the primary registrant database for the federal government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions, including federal agency contract and assistance awards.

- Go to https://www.bpn.gov/ccr/ to access the CCR.
- View the CCR FAQ at https://www.bpn.gov/ccr/FAQ.aspx.
- Download the CCR User Guide and view screenshots of the New User Registration Process at https://www.bpn.gov/ccr/Handbook.aspx
- Review the CCR New Registration Quickstart Guide at https://www.bpn.gov/ccrupdate/Help/New/C
- Ensure your organization has a Taxpayer Identification Number or Employer Identification Number (TIN/EIN), and know the organization's taxpayer name associated with that TIN.
- To obtain an EIN visit http://www.irs.gov/businesses/small/
- **CAGE CODE:** (Commercial and Government Entity Code) New registrants in the CCR system will be assigned a CAGE Code as their CCR registration goes through the validation process.
- **MPIN:** Marketing Partner ID Number: The MPIN is a mandatory data element created by the CCR registrant. The MPIN is a personal code that allows you to access other government applications such as the Past Performance Information Retrieval System (PPIRS) and the Online Representations and Certifications Application (ORCA). The MPIN acts as your password in these other systems, and you should guard it as such.

STEP THREE

Complete and send a completed FEMA Vendor Profile Form to the Industry Liaison program. (Please contact the Industry Liaison Support Center at FEMA-Industry@dhs.gov for a FEMA Vendor Profile Form).

STEP FOUR

ONE-PAGE CAPABILITY STATEMENT:

Prepare a one-page capability statement that identifies your company's certifications, overview and experience as it relates to a specific or general opportunity being sought. Use the one-page statement as a way to introduce your company to FEMA.

STEP FIVE

BEGIN MARKETING YOUR COMPANY:

Research the Federal Business Opportunities website for opportunities posted by FEMA (Department of Homeland Security) at www.fbo.gov

In addition, contact your Disaster Field Office (DFO). DFO locations and telephone numbers

can be accessed by calling FEMA's acquisition voice message system at (202) 646-4006, or contact the FEMA regional office where the disaster has occurred.

Failure to complete these steps may significantly delay your registration in FEMA's vendor information repository. Please note: CCR is considered the primary market research tool for the Contract Officer, and the profile is considered supplemental market research information.

The FEMA Industry Liaison program can be contacted at FEMA-Industry@dhs.gov or 202-646-1895.

Consider becoming a contractor at a Disaster Field Office (DFO). DFO locations and telephone numbers can be accessed by calling FEMA's acquisition voice message system at (202) 646-4006, or contact the FEMA regional office where the disaster has occurred. In addition, please visit FEMA's Disaster Recovery Center locator to find a center near you.

Employees

The answers to each of the following questions are based on the assumption that the affected employees are not covered by a collective bargaining agreement and do not have an employment contract with their employer. In the event that the affected employees are covered by a collective bargaining agreement or an employment contract, the employer should consult the terms and conditions of those agreements and contracts. Similarly, if the employer has certain established employment policies, the employer should consult and comply with its policies.

Worker laws can be either state or federal. Federal labor laws apply to all workers in the country while state laws apply in their own areas. Some states make few laws of their own and rely mainly on federal law to regulate employer-employee relations, while others set their own laws.

Employee FAQ's

Does an employer have to pay its employees for the days that the business was closed as a result of the disaster and its aftermath?

The answer to this question depends on whether the employee is considered an "exempt" employee or a "non-exempt" employee for purposes of federal and state wage-and-hour laws. Every employee must be treated as either exempt (not entitled to premium pay for overtime hours worked) or non-exempt (entitled to premium pay for overtime hours worked) under federal and state wage-and-hour laws.

The determination of whether an employee is "exempt" or "non-exempt" is a complicated, fact-specific determination. Generally speaking, an employee is considered a non-exempt employee if the employee is paid on an hourly basis and not on a salary basis. In contrast, to be considered an exempt employee, an employee must be paid on a salary basis and must have certain job duties and responsibilities that are executive, administrative or professional (among others) as required under the applicable wage and-hour laws.
An employer is not required to pay its non-exempt employees for any days or hours that the employees did not work because the business was closed following the disaster. The

employer is, however, required to pay the non-exempt employee for any hours worked prior to the disaster. An exempt employee should receive his or her full salary for any week in which he or she performs any work without regard to the number of days or hours worked. Thus, if an exempt employee worked on Wednesday, April 27, 2011, but worked no other days during the week, then the employer should pay the employee his or her full salary for that week.

If an employer's records were destroyed as a result of the disaster and its aftermath, what basic payroll records does the employer need to try to recreate?
Under federal law, every employer must establish, maintain and preserve weekly payroll records, including the following information for each employee:

- Employee's full name, as used for social security purposes
- Address, including zip code
- Birth date, if younger than 19
- Sex and occupation
- Time and day of week when employee's work week begins
- Hours worked each day and total hours worked each workweek
- Basis on which employee's wages are paid
- Regular hourly pay rate
- Total daily or weekly straight-time earnings
- Total overtime earnings for the work week
- All additions to, or deductions from, the employee's wages
- Total wages paid each pay period, including money paid in cash
- Date of payment and the pay period covered by the payment

There is no special rule relieving employers of this obligation in connection with a disaster.

When must an employer pay its workers if the employer's payroll records were destroyed?
Any organization employing as many as 50 or more employees must make full payment to employees for services performed as often as once every two weeks, or twice during each calendar month. This payment must include all amounts due for labor or services performed up to not less than 15 days previous to the time of payment.

Does an employer have to reimburse its employees for the destruction or loss of any of their personal items, such as personal computers or cars that they may have used for business purposes?
You should consult with your insurance provider to determine whether loss of employees' personal property is covered by any insurance policy. Ordinarily, employers are not responsible for reimbursing employees for the loss or damage to personal property an employee chose to bring to the work site.

Once an employer reopens its business, does the employer have to pay its employees for the days on which a transportation problem or some other obstacle prevented them from reporting to work?
This also depends on whether the employee is considered an exempt or non-exempt employee. For purposes of wage-and-hour laws, the employer is not required to pay a non-

exempt employee for any days or hours that the employee was absent from work due to a transportation problem or some other obstacle that prevented him or her from reporting to work. An exempt employee should receive his or her full salary for any week in which he or she performed any work.

May an employer require its employees to use their accrued vacation or sick leave to cover their absences from work due to the disaster?
Once the employer reopens, if an employee is unable to report to work due to the disaster, the employer may require an employee to use his or her accrued vacation or sick leave to cover his or her absences, provided that this is consistent with the employer's leave policies and provided that the employee's absence from work does not qualify as leave pursuant to the Family Medical Leave Act (FMLA).

Leave under the FMLA. The FMLA provides that a covered employee may take up to a total of 12 weeks' unpaid leave during any 12-month period for certain qualifying reasons. During the leave period, the employer must maintain the employee's health benefits and must guarantee that the employee will be reinstated to the same or an equivalent position.

The FMLA applies to only those employers that employ 50 or more employees for each working day in each of 20 or more calendar workweeks in the current or preceding calendar year. An employee is entitled to FMLA leave if the employee (1) has been with the employer for at least 12 months, (2) logged at least 1,250 hours of services during the 12-month period immediately preceding the start of the leave and (3) is employed at a work site where 50 or more employees are employed by the employer or within 75 miles of that work site. FMLA leave may be taken to care for the employee's spouse, child or parent with a serious health condition or because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

Eligible employees are entitled to 12 work weeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on "covered active duty;" or
- twenty-six work weeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent or next of kin to the employee (military caregiver leave).

For compliance information, see http://www.dol.gov/whd/fmla/

Is an employee entitled to either paid or unpaid leave so that he or she can care for children or family members injured by the disaster?
If the employee is entitled to FMLA leave as described above, the employer must allow the employee to take FMLA leave. This leave does not have to be paid leave, but the employee may be able to use accrued vacation or sick leave for the absence. Also, if the employer has a specific policy providing for leave under such circumstances, the employer will be required to comply with its policy.

Is an employee entitled to either paid or unpaid leave if the employee is too afraid or emotionally traumatized to return to work?
If the employee is suffering from post-traumatic stress or some other mental condition, the employer may be required to provide the employee with unpaid leave under the FMLA. However, the employee will have to meet the applicable requirements of the FMLA, as set forth above. If the employer provides paid leave, the employee may be able to use his or her accrued vacation or sick leave for the absence.

Health & Welfare Benefits FAQ's

Are there sources beyond or in lieu of employers' own insurance policies to alleviate some of the financial burden caused by the disaster?
Many of the individuals injured by the disaster may be able to receive benefits from a number of sources, including federal government assistance, charitable donations and unemployment compensation. Thus, employers should, without delaying treatment for any employees or their dependents, pay special attention to the rules of their policies regarding subrogation and the order of benefit determinations.

What can employers do to help their employees recover psychologically from the trauma of the disaster and its aftermath?
Plans may experience an increase in mental health claims, as well as more requests for assistance under employee assistance programs (EAPs). Employers should advise their employees of the availability and importance of such counseling, both for themselves and their families. If an employer does not have an EAP, counseling and other related services are available on a fee-paying basis.

What should be done about Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage?
COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end due to a "qualifying event" (such as the death of the covered employee, termination of employment or reduction of hours sufficient to cause the loss of medical coverage). Employees self-pay the premium.

Once an affected employee loses coverage as a result of one of these events, the employer must take action to notify the plan administrator within the prescribed time period. Qualified beneficiaries must be informed of their right to continued health insurance coverage under COBRA within 44 days (the employer must notify plan administrator within 30 days, which must then notify eligible dependents within 14 days) of a qualifying

event. All required notices regarding COBRA should be carefully documented and timely. Generally, the qualified beneficiary has 60 days from the later of (a) the date of termination of coverage, or (b) his or her receipt of COBRA notice to elect to continue coverage. COBRA coverage can usually continue for up to 18 months for the employee and the employee's dependents and for 36 months for family members of a deceased worker.

Covered California (Affordable Care Act)

Health insurance exchanges are the most important component of healthcare reform for small businesses. These marketplaces will allow small businesses and individuals to band together to purchase insurance, which will lower their healthcare costs and allow more of them and their employees to get quality healthcare coverage. ?

Health insurance exchanges—and the Small Business Health Options Program (SHOP) in particular—are the most important element of healthcare reform for small businesses. The SHOP exchanges can initially serve firms with up to 100 employees. But if a state chooses, it may restrict SHOP exchange eligibility to employers with 50 or fewer employees through 2016.

The fundamental mission of SHOP exchanges is to create a well-functioning health insurance marketplace that provides an array of affordable, high-quality health insurance plans for small businesses and their employees.

For more details, visit Covered California's website: **http://www.coveredca.com/small-business/**

Layoffs

Does an employer have to provide its employees with any prior notice of termination if the employer determines that it is necessary to lay off employees?
No, if the employer does not have an established policy requiring that prior notice be given, the emergency circumstances of the disaster would relieve the employer of a notice obligation. Usually, employers with more than 100 employees may have an obligation to provide certain notice to its employees pursuant to the Worker Adjustment and Retraining Notification (WARN) Act. However, the WARN Act contains an "Act of God" provision if the layoff or shutdown is the result of a natural disaster. Note that employers with established policies requiring that prior notice be given may be required to comply with their policies.

Does an employer have to provide its employees with severance pay if the employer determines to lay off employees?
No, so long as the employer does not have a plan, policy or practice providing for the payment of severance benefits. The state laws of California, as well as federal law, do not require employers to provide severance pay to departing employees.

Is a self-employed, small business owner eligible to receive unemployment insurance benefits?
No. Self-employed, small business owners (sole proprietorships and members of a partnership or limited liability company) as well as independent contractors are not eligible for unemployment insurance benefits. However, persons denied unemployment insurance benefits may be eligible for disaster unemployment assistance (DUA).

Workers who lost their jobs directly as a result of the disaster in the declared counties may quality for disaster unemployment assistance. Generally, those who are eligible for state unemployment benefits are not eligible for DUA, but a claimant may qualify if state unemployment compensation benefits are exhausted.

Those who may be eligible for disaster unemployment assistance include anyone who (1) no longer has a job; (2) was unable to reach his or her job; (3) was scheduled to start work in the major disaster area and the job no longer exists; (4) now serves as the breadwinner or major supporter of a family because the head of household died; or (5) cannot work because of an injury suffered during the major disaster.
Self-employed individuals must show a copy of their previous year income tax records.

Note: If you are applying for DUA, call FEMA 1-800-462-9029 first to get a registration number.

Contacts and Resources

General disaster resources

- California Seismic Safety Commission: (916) 263-5506; www.seismic.ca.gov
- Disaster Assistance.gov http://www.disasterassistance.gov (part of the Disaster Management Egov Initiative) is a secure, user-friendly web portal that consolidates information about federally funded government assistance to disaster victims.
- FEMA website: http://www.fema.gov/
- SBA website: http://www.sba.gov
- Disaster Food Stamps: http://www.fns.usda.gov/Disasters/disaster.htm
- Disaster Unemployment Assistance: http://workforcesecurity.doleta.gov/unemploy/disaster.asp
- Department of Housing and Urban Development (HUD) -- Disaster Assistance General: http://www.hud.gov/info/disasterresources_dev.cfm
- Department of Housing and Urban Development: www.hud.gov/offices/pih/publications/notices/08/pih2008-21.pdf
- USDA Rural Development Disaster Assistance: http://www.rurdev.usda.gov/rd/disasters/
- IRS Disaster Tax Relief:http://www.irs.gov/newsroom/article/0,,id=108362,00.html
- CA Department of Insurance: http://www.insurance.ca.gov/

Legal help

- LawHelp: http://www.lawhelp.org helps low and moderate income people find free legal aid programs in their communities and answers to questions about their legal rights. Find information for free legal aid or pro bono legal assistance in all 50 states plus US territories.
- http://www.findlegalhelp.org. Find legal resources in your state. Maintained by the American Bar Association.

Federal contact information

FEMA (Disaster Assistance)	1-800-621-3362
(TTY line)	1-800-462-7585
United States Citizenship & Immigration Services	1-800-375-5283
(TTY line)	1-800-767-1833
United States Internal Revenue Service	1-800-829-1040
United States Social Security Administration	1-800-772-1213
(TTY line)	1-800-325-0778
Centers for Disease Control and Prevention	1-800-CDC-INFO; cdcinfo@cdc.gov

California Offices of Emergency Management

California Governor's Office of Emergency Services 916-845-8510
www.caloes.ca.gov

Governor's Office of Business & Economic Development

GoBiz: http://business.ca.gov

California Small Business Development Center Network

California SBDC Network:	http://californiasbdc.org/
Northern CA SBDC Network	(707) 826-3919
Northeastern CA SBDC Network	(877) 303-9111
UC Merced SBDC Regional Network	(877) 826-7232
Orange County/Inland Empire SBDC Network	(657) 278-2719
Los Angeles SBDC Network	(562) 938-5020
San Diego & Imperial Regional SBDC	(619) 482-6391

Insurance Company Contact Information

The following table is a list of common commercial insurance carriers. If your insurance carrier is not listed, please refer to your policy or your contact information or visit the Insurance Information Institute to locate contact information for your insurance carrier http://www2.iii.org/companies.cfm.

CNA	http://www.cna.com	877-262-2727
The Hartford Financial Group	http://www.thehartford.com/	800-327-3636
MetLife Auto & Home	http://www.metlife.com	800-854-6011
Westfield Group	http://www.westfieldinsurance.com/	866-937-2663
Utica National Insurance Group	http://www.uticanational.com/	800-216-1420
USAA	https://www.usaa.com/	800-531-8722
ACE USA	http://www.acelimited.com/	877-210-3149
Ironshore Insurance Ltd.	http://www.ironshore.com/	877-476-6411
Harleysville Insurance	http://www.harleysville.com/	800-892-8877
The Hanover Insurance Group, Inc.	http://www.hanover.com/	800-628-0250
Aegis Insurance Services Inc.	http://www.aegislink.com/	201-521-4824
Allstate Insurance Group	http://www.allstate.com/	800-255-7828
Travelers	http://www.travelers.com/	800-252-4633
Century Surety Company	http://www.centurysurety.com/	800-825-9489
W. R. Berkley Corporation	http://www.wrberkley.com/	Contact Agent
Liberty Mutual Group	http://www.libertymutual.com/	800-225-2467
Magna Carter Companies	http://www.mcarta.com/	Contact Agent
Farmers Group, Inc.	http://www.farmers.com/	800-435-7764
Glencoe Insurance Group	http://www.glengrp.com/	866-255-4920
OneBeacon Insurance Group	http://www.onebeacon.com/	877-248-3455
Allianz of America, Inc.	http://www.allianz.com/	888-347-3428
CUNA Mutual Group	http://www.cunamutual.com/	800-356-2644
Unitrin P/C Insurance Group	http://www.unitrin.com/	888-252-2799
Safeco Corporation	http://www.safeco.com/	800-332-3226
James River Group, Inc	http://www.james-river-group.com/	Contact Agent
Selective Insurance Group	http://www.selectiveinsurance.com/	866-455-9969
Zurich North America	http://www.zurichna.com/	800-987-3373
GuideOne Insurance	http://www.guideone.com/	888-748-4326
Alea Group	http://www.aleagroup.com/	860-513-4180
Nationwide	http://www.nationwide.com/	800-421-3535
The Sullivan Group	http://www.gjs.com/	Contact Agent
State Farm	http://www.statefarm.com/	877-734-2265
Chubb Group Of Insurance Companies	http://www.chubb.com/	800-252-4670

Appendix

A. 20 Questions to Ask Your Insurance Agent

B. Post Disaster Flow Chart

C. Employee Contact Information Form

D. Key Customer Information Form

E. Supplier Contact Information Form

F. Equipment/Hardware Inventory Form

20 Insurance Questions to Ask Your Agent

1.) If I don't already have one, am I eligible for a BOP policy?

2.) What deductible do I have and how does it apply?

3.) Do I have a copayment and/or coinsurance?

4.) If I have coinsurance how does it work?

5.) Is my property coverage on an actual cash value basis or a replacement cost basis?

6.) Is my personal property and building coverage on the same basis (replacement cost vs. actual cash value)?

7.) Do I have/need a peak season endorsement on my inventory?

8.) If my policy is a "named perils" policy, what perils are covered? Are there any possible causes of loss that could impact my business that are not covered? Would an open perils policy cover those types of losses?

9.) What types of losses are excluded under this policy? Which ones might be particularly relevant to my business?

10.) What are my policy limits and how do the limits apply? Do I have/need an inflation guard?

11.) If I increase my deductible, how much does my premium go down?

12.) If I increase my limits, how much does my premium go up?

13.) Would a blanket policy (for multiple locations) be helpful to me?

14.) Are there any premium discounts that I could be eligible for? Is there anything I can do to get [additional] premium discounts?

15.) How many carriers do you work with that underwrite my type of policy? Why did you choose to place my business with the company you selected? *Ask this question if you are working with an independent agent.*

16.) Have you "shopped" my insurance recently?

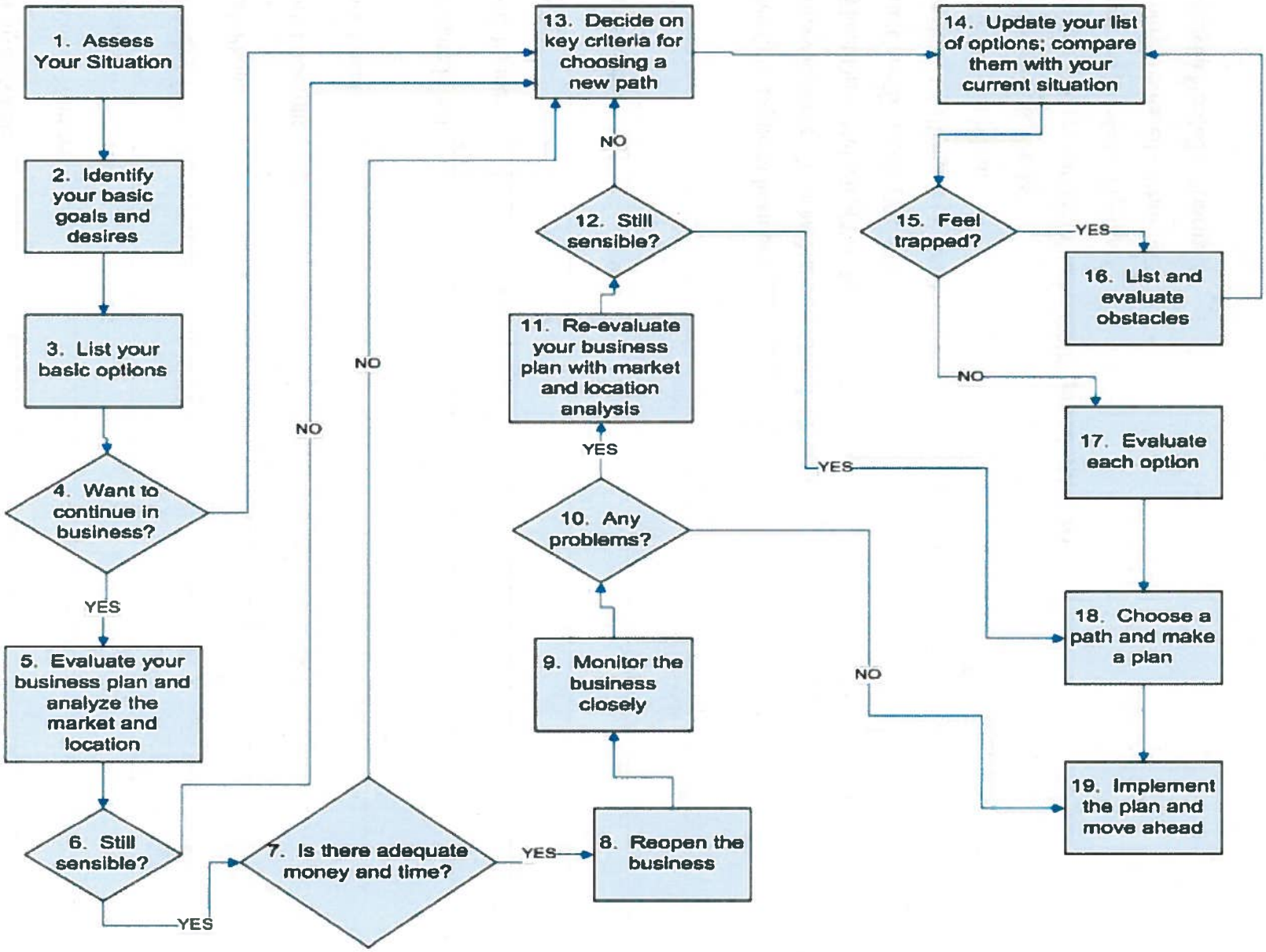
17.) Is my insurance through the surplus lines? What does that mean for me?

18.) What is my company rated by AM Best and/or Standard and Poor? How does that compare to other insurers?

19.) Do you conduct free, regular risk assessments? How often? *(If not, you might consider working with an agent who does.)* Is there any exposure that you are aware of for which I do not have insurance?

20.) Should I consider getting a claims-made basis liability policy instead of occurrence?

Post-Disaster Flow Chart



CALIFORNIA SBDC | Small Business Development Centers

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Employee Contact Information

Employee Name: _____

Employee Number: _____

Division: _____

Employee Title: _____

Work Phone: _____

Work Location: _____

Work Email: _____

Alternate Email: _____

Home Phone: _____

Mobile: _____

Home Address: _____

City _____ State _____ Zip Code _____

Miles from Home to business: _____

Military Reserve: (Y or N) National Guard: (Y or N)

4 Wheel Drive Vehicle: (Y or N)

Child Care Required: (Y or N)

Physically Challenged: (Y or N)

Medical Description:

Shift Employee Works:

Requires Transportation: (Y or N) CPR Trained: (Y or N)

Employee Needed – Priority 1:

Employee Needed – Priority 2:

Employee Needed – Priority 3:

CALIFORNIA SBDC | Small Business Development Centers

Key Customer Information

Use this form to:
1. Keep a list of your key customers that you need to contact in the event of a disaster,
2. Track where these customers can obtain alternative resources until you reopen.

Keep one copy of this list in a secure place on your premises and another in an off-site location. You can also scan this document and store in your online backup.

CUSTOMERS

Company Name: _____

Street Address: _____

City _____ State_____ Zip Code_____

Phone: _____ Fax: _____

E-mail: _____ Contact Name: _____

Account Number: _____

Priority Plan:

Company Name: _____

Street Address: _____

City _____ State_____ Zip Code_____

Phone: _____ Fax: _____

E-mail: _____ Contact Name: _____

Account Number: _____

Priority Plan:

Supplier Contact Information

Use this form to:
1. Keep a list of the major suppliers you need to contact in the event of a disaster, and
2. Know what their disaster plans are in the event that they experience a disaster.

Keep one copy of this list in a secure place on your premises and another in an off-site location.

SUPPLIERS

Company Name: _____

Street Address: _____

City _____ State_____ Zip Code_____

Phone: _____ Fax: _____

E-mail: _____ Contact Name: _____

Account Number: _____

Materials/Services Provided: _____

Company Name: _____

Street Address: _____

City _____ State_____ Zip Code_____

Phone: _____ Fax: _____

E-mail: _____ Contact Name: _____

Account Number: _____

Materials/Services Provided: _____

Equipment/Furniture Inventory Form

List office equipment, hardware and furniture required to restore operations.

Item Description: _____

Location: _____

Code_____ Phone: _____ Fax:_____

Item Number: _____

Vendor Number: _____

Stored Offsite: (Y or N)

How to be acquired: Leased from vendor?

Qty Needed – Restore:
Qty Needed – Priority 1
Qty Needed – Priority 2
Qty Needed – Priority 3

Item Description: _____

Location: _____

Code_____ Phone: _____ Fax:_____

Item Number: _____

Vendor Number: _____

Stored Offsite: (Y or N)

How to be acquired: Leased from vendor?

Qty Needed – Restore:
Qty Needed – Priority 1
Qty Needed – Priority 2
Qty Needed – Priority 3