

“PUBLIC AGENCY” AT-A-GLANCE

PUBLIC SAFETY OFFICERS’ BENEFITS PROGRAM

To receive a benefit under the Public Safety Officers’ Benefits (PSOB) Act and its regulations, a Claimant filing a PSOB claim must show that a **public safety officer** died, or was totally and permanently disabled, due to an **injury sustained in the line of duty**. An individual is considered a public safety officer for purposes of the PSOB Program if he or she is serving a **public agency** in an official capacity as a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew. Although the PSOB Act and its regulations govern this matter, and should be carefully reviewed for a greater understanding of the definitions and details related to the program, the following information provides an overview regarding organizations qualifying as a “public agency.” (42 U.S.C. § 3796b(8))

United States, Any State, Territories, Certain Federal Holdings

The first type of public agency is specifically named to include the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States. Because these entities are inherently public, their employees work for a “public agency.” Note that this category would *not* include contractors hired by the United States, any individual State, or any United States territory, but rather actual *employees*, such as State Troopers, Secret Service Agents, and Forestry Service Firefighters.

Unit of Local Government

This second type of public agency is statutorily defined and includes a variety of *local* entities. Most common are municipalities, counties, and similar general political subdivisions of a State, such as parishes, law enforcement districts, and judicial districts.

Department or Agency

The third type of public agency is defined by regulation, and includes courts, the Federal Emergency Management Agency (FEMA), state emergency management agencies working with FEMA, and certain government agency divisions.

Instrumentality

The final type of organization considered a public agency is an “instrumentality” of any of the above types of public agencies, and is defined by regulation. Generally, an instrumentality is a non-governmental entity that essentially operates as a part of a government. An entity must meet certain criteria to be an instrumentality for PSOB purposes:

Instrumentality “Musts”	Ineligible Entities
Must be legally organized, and function solely as a part of the relevant government, which formally recognizes it to be doing so. Entities that do not have legal existence will not qualify, nor will entities that operate in part as private companies pursuing commercial interests in other areas.	A private hospital with an ambulance service that responds to emergencies for the local government would not be an instrumentality of that government because many aspects of its functions, including providing hospital care for patients, are not performed solely as part of such government.
Its functions must be of a public character and must be offered to the public in the same way as those services would be offered by a government itself.	An entity that provides its services only to paying subscribers would not qualify as an instrumentality.
The government the entity operates on behalf of must recognize the acts and omissions of that entity as its own. This means that entities that operate under a contract with the government must be indemnified by the government, enjoy the protection of the sovereign immunity of that government, or otherwise be treated as part of the government for the purposes of legal liability.	Independent contractors who agree to hold harmless the government for the errors and omissions of the contractors would not qualify.

Questions?

Contact the PSOB Office at 1-888-744-6513.