

International Association of Emergency Managers
Disaster Cost Recovery & Finance Caucus
Conference Call Agenda
Week of March 30, 2020

1. Call to Order
2. Welcome and Introductory Comments: Mike Martinet, Chair
3. The goals of the Disaster Finance and Cost Recovery and Finance Caucus are to:
 - a. Raise awareness of the issues faced by eligible applicants in receiving and retaining Federal disaster assistance grants, particularly the Public Assistance program;
 - b. Provide a networking vehicle for IAEM members involved with disaster cost recovery and finance;
 - c. Support the Governmental Affairs Committee, as appropriate, in its efforts to improve Federal post-disaster assistance programs; and
 - d. Provide a way to identify emergency managers and others who may have expertise in support of colleagues when they are affected by disasters.
4. **Handout Documents:**
 - A. President Donald J. Trump Directs FEMA Support Under Emergency Declaration for COVID-19
 - B. Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures
 - C. Public Assistance: Non-Congregate Sheltering Delegation of Authority
 - D. Coronavirus (COVID-19) Pandemic: Public Assistance Simplified Application
 - E. Procurement Under Grants Conducted Under Emergency or Exigent Circumstances for COVID-19
 - F. Excerpt from the Public Assistance Program and Policy Guide (PAPPG): Medical Care
 - G. Coronavirus (COVID-19) Pandemic: Public Assistance Simplified Application
 - H. Talking Points: PA Application Simplification for Nationwide Emergency Declaration for COVID-19
 - I. Public Assistance Applicant Procurement Compliance Checklist
5. Q & A: Tap into our panel of experts

To contact the Caucus Chair, Mike Martinet, please email me at mike_martinet@yahoo.com

President Donald J. Trump Directs FEMA Support Under Emergency Declaration for COVID-19

Release date:

March 13, 2020

Release Number: HQ-20-017

The federal government continues to take aggressive and proactive steps to address the COVID-19 threat as the health and safety of the American people remain a top priority.

Today, President Trump declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”). This increases federal support to the Department of Health and Human Services (HHS) in its role as the lead federal agency for the ongoing COVID-19 pandemic response. As a result of the President’s decisive, unprecedented action, FEMA is directed to assist state, local, tribal, territorial governments and other eligible entities with the health and safety actions they take on behalf of the American public. Today’s declaration does not make direct financial assistance available to individuals.

The emergency declaration does not change measures authorized under other federal statutes and HHS remains the lead federal agency directing the federal response to COVID-19. FEMA actions will be in support of HHS and in coordination with state, tribal and territorial governments. **Eligible emergency protective measures taken at the direction or guidance of public health officials in response to this emergency, and not supported by the authorities of another federal agency, will be reimbursed strictly under the FEMA Public Assistance program.** FEMA assistance will be provided at a 75 percent Federal cost share. Reimbursable activities typically include emergency protective measures such as the activation of State Emergency Operations Centers, National Guard costs, law enforcement and other measures necessary to protect public health and safety.

For more information, visit the COVID-19 Emergency Declaration Fact Sheet.

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Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures

Release date: March 19, 2020

Release Number: FACT SHEET

Consistent with the President's national emergency declaration for the coronavirus (COVID-19) pandemic on March 13, 2020, FEMA urges officials to, without delay, take appropriate actions that are necessary to protect public health and safety pursuant to public health guidance and conditions and capabilities in their jurisdictions. FEMA provides the following guidance on the types of emergency protective measures that may be eligible under FEMA's Public Assistance Program in accordance with the COVID-19 Emergency Declaration in order to ensure that resource constraints do not inhibit efforts to respond to this unprecedented disaster.

FEMA Public Assistance Program

In accordance with section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"), eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of public health officials may be reimbursed under Category B of FEMA's Public Assistance program. FEMA will not duplicate assistance provided by the U.S. Department of Health and Human Services (HHS), to include the Centers for Disease Control and Prevention (CDC), or other federal agencies.

State, territorial, tribal, and local government entities and certain private non-profit organizations are eligible to apply for Public Assistance. FEMA assistance will be provided at a 75 percent federal cost share. This assistance will require execution of a FEMA-State/Tribal/Territory Agreement, as appropriate, and execution of an applicable emergency plan. Local governments and other eligible PA applicants will apply through their respective state, tribal or territorial jurisdictions.

Eligible Assistance

Under the COVID-19 Emergency Declaration described above, FEMA may provide assistance for emergency protective measures including, but not limited to, the following, if not funded by the HHS/CDC or other federal agency. While some activities listed may be eligible for funding through HHS/CDC, final reimbursement determinations will be coordinated by HHS and FEMA. FEMA will not duplicate any assistance provided by HHS/CDC):

Management, control and reduction of immediate threats to public health and safety

- Emergency Operation Center costs
- Training specific to the declared event

- Disinfection of eligible public facilities
- Technical assistance to state, tribal, territorial or local governments on emergency management and control of immediate threats to public health and safety

Emergency medical care:

- Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility
- Related medical facility services and supplies
- Temporary medical facilities and/or enhanced medical/hospital capacity (for treatment when existing facilities are reasonably forecasted to become overloaded in the near term and cannot accommodate the patient load or to quarantine potentially infected persons)
- Use of specialized medical equipment
- Medical waste disposal
- Emergency medical transport

Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)

- All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC and must be implemented in a manner that incorporates social distancing measures.
- Non-congregate medical sheltering is subject to prior approval by FEMA and is limited to that which is reasonable and necessary to address the public health needs of the event, is pursuant to the direction of appropriate public health officials and does not extend beyond the duration of the Public Health Emergency.
- Household pet sheltering and containment actions related to household pets in accordance with CDC guidelines
- Purchase and distribution of food, water, ice, medicine, and other consumable supplies, to include personal protective equipment and hazardous material suits
- Movement of supplies and persons
- Security and law enforcement
- Communications of general health and safety information to the public
- Search and rescue to locate and recover members of the population requiring assistance
- Reimbursement for state, tribe, territory and/or local government force account overtime costs

Further information about eligible emergency protective measures can be found in the Public Assistance Program and Policy Guide, FP 104-009-2 (April 2018).

Last Updated:

March 19, 2020 - 15:09

Public Assistance: Non-Congregate Sheltering Delegation of Authority

Release date: March 19, 2020

Release Number: FACT SHEET

Under President Trump's March 13, 2020, national emergency declaration for the coronavirus (COVID-19) pandemic, FEMA's Regional Administrators have been delegated authority to approve requests for non-congregate sheltering for the duration of the Secretary of Health and Human Services' declaration of a Public Health Emergency for COVID-19.

In accordance with section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of state, local, tribal, and territorial public health officials may be reimbursed under Category B of FEMA's Public Assistance program.

FEMA recognizes that non-congregate sheltering may be necessary in this Public Health Emergency to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of a catastrophe. States, tribes and territories should work with their regional administrators for approval of noncongregate sheltering and procure the necessary support services needed to meet the needs of the public health emergency. The following criteria must be considered before setting up non-congregate sheltering and support services:

- The non-congregate sheltering must be at the direction of and documented through an official order signed by a state, local, tribal, or territorial public health official.
- Any approval is limited to that which is reasonable and necessary to address the public health needs of the event and should not extend beyond the duration of the Public Health Emergency.
- Applicants must follow FEMA's Procurement Under Grants Conducted Under Exigent or Emergency Circumstances guidance and include a termination for convenience clause in their contracts
- Prior to approval, the applicant must provide an analysis of the implementation options that were considered and a justification for the option selected.
- The funding for non-congregate sheltering to meet the needs of the Public Health Emergency cannot be duplicated by another federal agency, including the U.S. Department of Health and Human Services or Centers for Disease Control and Prevention.
- Applicable Environmental and Historic Preservation laws, regulations, and executive orders apply and must be adhered to as a condition of assistance.

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Last Updated: March 19, 2020 - 14:05

Coronavirus (COVID-19) Pandemic: Public Assistance Simplified Application

Release date: March 23, 2020
Release Number: FACT SHEET

This Fact Sheet supplements Fact Sheet: Coronavirus (COVID-19) Pandemic Emergency Protective Measures and provides an overview of the FEMA Public Assistance application process for recipients and applicants requesting reimbursement related to federal emergency and major disaster declarations for Coronavirus 2019 (COVID-19). FEMA is simplifying the Public Assistance application and funding process to address the magnitude of this event and allow local officials to receive eligible funding more quickly.

FEMA is simplifying the Public Assistance application process. FEMA is developing a simplified online form applicants can complete, and on which they may explain work activities, answer basic questions, provide limited supporting documentation, and provide a cost estimate. FEMA and the recipient will review this information, follow up with limited requests for additional information if necessary, and award assistance. Recipients will have access to all projects in PA Grants Portal, consistent with the traditional PA process.

The national emergency declaration authorized Public Assistance Category B reimbursement for emergency protective measures. It does not include additional categories of assistance, such as infrastructure repair and replacement, which are needed after typical natural disasters. This enables FEMA to eliminate many application steps that are designed for those categories, including: eliminating exploratory calls, recovery scoping meetings, and most site inspections; and reducing documentation requirements to the minimum needed to support Category B reimbursement.

Recipients are states, tribes, or territories that receive and administer Public Assistance awards. Applicants are state, local, tribal and territorial governments, or eligible private nonprofits, submitting a request for assistance under a recipient's federal award.

COVID-19 Public Assistance Graphic



Applicants are empowered to drive their own recovery and directly apply for reimbursement without waiting for FEMA to assign a Program Delivery Manager. FEMA

is simplifying the process so applicants may directly apply for assistance through the PA Grants Portal.

As FEMA and recipients implement these changes, FEMA will continue to process and fund Public Assistance projects. Funding is immediately available should state, tribal, territorial or local officials request expedited assistance. Prior to funding, recipients must sign FEMA-State/Tribal/Territorial Agreements, submit signed Federal Grant Applications (SF-424), and update Recipient Public Assistance Administrative Plans. Recipients should start setting up Grants Portal accounts for themselves and applicants at grantee.fema.gov so they can apply for assistance. Once an account is created, Applicants may submit Requests for Public Assistance to begin the application process.

FEMA is working to rapidly scale up the information, tools and technology necessary to provide assistance to all applicants. Eligibility guidance on what FEMA can fund will be updated on the Public Assistance Policy, Guidance, and Factsheets page on FEMA.gov and the COVID-19 page on FEMA.gov. Application support and tutorials are available on the resource tab in PA Grants Portal.

More Information

For more information, visit the following websites:

Public Assistance Program and Policy Guide
FEMA.gov/Coronavirus
Coronavirus (COVID-19) (CDC)

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Last Updated: March 23, 2020 - 16:15




FEMA

March 17, 2020

MEMORANDUM FOR: All States, Territories, Tribal Governments, Local Governments, and All Other Non-Federal Entities Receiving FEMA Financial Assistance

FROM: David Bibo 
Acting Associate Administrator
Office of Response and Recovery

Bridget E. Bean 
Assistant Administrator
Grant Programs Directorate

SUBJECT: Procurement Under Grants Conducted Under Emergency or Exigent Circumstances for COVID-19

Subsequent to the President's March 13, 2020 Nationwide Emergency Declaration for Coronavirus Disease 2019 (COVID-19), the Department of Homeland Security's Federal Emergency Management Agency (FEMA) is issuing the attached Fact Sheet addressing procurements made during periods of exigent or emergency circumstances. FEMA recognizes that noncompetitive procurements may be necessary to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of a catastrophe. The attached Fact Sheet provides answers and guidance surrounding the need for such measures.

Current Federal procurement standards (found at 2 C.F.R. § 200.320(f)(2)) allow non-state entities to noncompetitively procure contracts (i.e., sole-sourcing) under certain emergency or exigent circumstances. FEMA defines an emergency or exigent circumstances as unexpected and unusually dangerous situations requiring immediate action or an urgent need for assistance or relief. Emergencies typically involve a threat to life, public health or safety, improved property, or some other form of dangerous situation. Exigencies, on the other hand, typically involve an urgent need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise. Under both an emergency and exigency, using a competitive procurement process would prevent a non-state entity from taking immediate action required to address the situation. However, use of the emergency/exigency exception is only permissible during the actual emergency or exigent circumstances.

The President's unprecedented Nationwide Emergency Declaration, and the Secretary of Health and Human Services' (HHS) declaration of a Public Health Emergency for COVID-19 establish that exigent and emergency circumstances currently exist.

[For the duration of the Public Health Emergency](#), which began January 27, 2020 as determined by HHS, local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing noncompetitively procured contracts in order to protect property and public health and safety, or to lessen or avert the threats created by emergency situations for 1) Emergency protective measures under FEMA's Public Assistance Program and 2) Use of FEMA non-disaster grant funds by non-state recipients and sub-recipients to respond to or address COVID-19.

Attachment:

(1) Fact Sheet: *Procurement Under Grants Conducted Under Exigent or Emergency Circumstances*



Procurement Under Grants Conducted Under Exigent or Emergency Circumstances

The Federal Emergency Management Agency (FEMA) provides financial assistance to states, territories, tribes, local governments, nonprofits, institutions of higher education, and other non-Federal entities. All FEMA grant programs are subject to the Federal procurement standards found at 2 C.F.R. §§ 200.317 – 200.326. Recognizing that FEMA’s recipients and subrecipients may face exigencies or emergencies when carrying out a FEMA award, this Fact Sheet provides key information to consider when utilizing contracted resources under exigent or emergency circumstances.

What Rules Apply to State Entities?

States are required to follow their own procurement procedures as well as the Federal requirements for procurement of recovered materials and inclusion of required contract provisions per 2 C.F.R. §§ 200.317, 200.322, and 200.326.

For purposes of the Federal procurement requirements, states are defined as the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Northern Mariana Islands, and any agency or instrumentality thereof except for local governments. Tribal governments are not considered to be states when applying Federal procurement standards required by 2 C.F.R. Part 200.

What Rules Apply to Non-State Entities?

For all other types of entities, referred to as “non-state entities” in this Fact Sheet, Federal regulations (2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) establish requirements for the exigency or emergency exception that permits the use of noncompetitive procurements, frequently referred to as “sole-source contracting.” This exception and associated procurement requirements are discussed further below. In general, it will be fact-specific and entity-specific as to when exigent or emergency circumstances necessitate the use of noncompetitive procurements. The answers to the frequently asked questions below provide additional guidance on the acceptable use of noncompetitive proposals under exigent or emergency circumstances, which is described in regulation at 2 C.F.R. § 200.320(f)(2).

It is essential that all non-state entities understand that both FEMA and the U.S. Department of Homeland Security’s Office of Inspector General (OIG) closely review procurement actions and contract selections, with a particular emphasis on noncompetitive procurement actions, to evaluate compliance with Federal requirements. ***Failure to follow Federal contracting and procurement requirements puts non-state entities at risk of not receiving reimbursement or not being able to use FEMA grant funds for otherwise eligible costs.***

What is the exigency or emergency exception?

Non-state entities must follow the procurement requirements found at 2 C.F.R. §§ 200.317 – 200.326. However, Federal regulations allow for noncompetitive procurements under certain circumstances, including when a non-state entity determines that immediate actions required to address the public exigency or emergency cannot be delayed by a competitive solicitation. This represents an exception to requirements for full and open competition. FEMA approval is not required for use of noncompetitive

procurements under the emergency or exigency exception; however, the non-state entity must document its justification for using noncompetitive procurements and must still comply with other procurement requirements and ensure that costs are reasonable.

When referring to procurement activity, FEMA defines both exigency and emergency as situations that demand immediate aid or action. The difference between the two is that:

- In the case of an **exigency**, there is a need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise, to the non-state entity, and use of competitive procurement proposals would prevent the urgent action required to address the situation. Thus, a noncompetitive procurement may be appropriate.
- In the case of an **emergency**, a threat to life, public health or safety, or improved property requires immediate action to alleviate the threat.

While emergency conditions generally are short-lived, exigent circumstances can exist for a period of weeks or months.

Exigency Example: A tornado impacts a city in June and causes widespread and catastrophic damage, including damage to a city school. The city wants to repair the school and have it ready for use by the beginning of the school year in September. The city estimates, based on past experience, that awarding a contract using a sealed bidding process would require at least 90 days, and the city’s engineer estimates that the repair work would last another 60 days. This would extend the project beyond the beginning of the school year. Rather than conducting a sealed bidding process, the city—in compliance with state and local law—wants to sole source with a contractor it has contracted with previously. The city can demonstrate that this constitutes an “exigent circumstance” because use of a sealed bidding process would cause an unacceptable delay and thus procurement by noncompetitive methods was necessary based on the particular situation.

Emergency Example #1 (Disaster Grants): Severe weather impacts a city and causes widespread and catastrophic damage, including loss of life, widespread flooding, loss of power, damage to public and private structures, and millions of cubic yards of debris across the city, leaving almost the entire jurisdiction inaccessible. The city needs to begin debris removal activities immediately to restore access to the community, support search and rescue operations, power restoration, and address health and safety concerns. Under these circumstances, the city may find it necessary to award noncompetitive contracts to address threats to life, property, and public health.

Emergency Example #2 (Non-Disaster Grants): The weather in a city has been below freezing for the past 2 weeks, causing a pipe in the city’s emergency operations center to burst and flood the first floor. This flood destroyed half of the city’s radios that its emergency workers use to communicate with police and fire personnel. The city documented and demonstrated that it needed to replace these radios right away to avert an immediate threat to life, safety, or property as the city needed a full supply of radios in order to respond to emergencies. Under these circumstances, the city may find it necessary to award noncompetitive contracts to address threats to life, property, and public health.

When does the exigency or emergency exception apply and for how long?

Use of the public exigency or emergency exception *is only permissible during the actual exigent or emergency circumstances*. Exigency or emergency circumstances will vary for each incident, making it difficult to determine in advance or assign a particular time frame when noncompetitive procurements may be warranted. Exigent or emergency circumstances may exist for two days, two weeks, two months, or even longer in some cases. Non-state entities must ensure that work performed under the noncompetitively procured contracts is specifically related to the exigent or emergency circumstance in

effect at the time of procurement. Importantly, because the exception to competitive procurement is available only while the exigent or emergency circumstances exist, non-state entities should, upon awarding a noncompetitive contract, immediately begin the process of competitively procuring similar goods and services in order to transition to the competitively procured contracts as soon as the exigent or emergency circumstances cease to exist.

FEMA may review a non-state entity's justification that exigent or emergency circumstances warrant an exception to competitive procurement. If the agency determines that exigent or emergency circumstances did not exist or did not preclude a non-state entity from adhering to competitive procurement requirements, FEMA may disallow all or part of the non-state entity's cost related to the contract or take other actions permitted by statute and regulation. (*See* 2 C.F.R. § 200.338).

What documentation is required to support the use of the exigency or emergency exception?

While FEMA approval is not required for a non-state entity to use noncompetitive procurement proposals under the emergency or exigency exception, non-state entities must document and provide justification for the use of the exigent or emergency exception. A list of elements that non-state entities may wish to include as part of their written justifications can be found at the end of this Fact Sheet. The justification must be included in the non-state entity's records for each FEMA award, subaward, or project.

Do any Federal procurement requirements apply if a non-state entity is sole-sourcing a contract under exigent or emergency circumstances?

Yes, non-state entities must comply with the following requirements even when exigent or emergency circumstances exist:

- Contracts must include the required contract clauses (2 C.F.R. § 200.326 & Appendix II) (also applicable to states).
- Contracts exceeding the Federal simplified acquisition threshold must include the Federal bonding requirements if the contract is for construction or facility improvement (2 C.F.R. § 200.325).
- Contracts must be awarded to a responsible contractor (2 C.F.R. § 200.318(h)).
- The non-state entity must complete a cost or price analysis to determine that the cost or price of the contract is fair and reasonable if the contract exceeds or is expected to exceed the Federal simplified acquisition threshold (2 C.F.R. § 200.323(a) and (b)).
- The use of cost-plus-percentage-of-cost contracting is prohibited (2 C.F.R. § 200.323(c)).
- Use of time and materials contracts must comply with 2 C.F.R. § 200.318(j).
- The non-state entity must follow documentation, oversight, and conflict of interest requirements among other general procurement requirements in 2 C.F.R. § 200.318. If a conflict of interest is unavoidable due to the exigent/emergency circumstances, the non-state entity must explain that in the procurement documentation.

What if the non-state entity wants to use a pre-awarded or pre-existing contract in an exigency or emergency and that contract does not comply with the Federal procurement requirements?

If a pre-awarded or pre-existing contract is not in compliance with the Federal procurement requirements (e.g., the contract was not fully and openly competed (*see* 2 C.F.R. §§ 200.319, 200.320), the six affirmative socioeconomic contracting steps were not completed (2 C.F.R. § 200.321), there is a conflict of interest involved (2 C.F.R. § 200.318)), it may still be possible to use the contract for the duration of the exigency or emergency. FEMA recommends that non-state entities review the list of procurement requirements above and take actions to modify pre-awarded or pre-existing contracts where applicable. In addition, non-state entities must prepare the appropriate documentation to justify the use

of a noncompetitively procured contract.

Can non-state entities use time and materials (T&M) contracts in an exigency or emergency?

Yes, but only under certain circumstances. FEMA advises against the use of T&M contracts and generally limits the use of these contracts to a short time period where the scope or duration of the work is unclear. T&M contracts do not incentivize contractors to control costs or maximize labor efficiency. FEMA may reimburse costs incurred under a T&M contract only if all of the following apply:

- No other contract was suitable;
- The contract has a ceiling price that the contractor exceeds at its own risk; and
- The non-state entity can demonstrate it provided a high degree of oversight to obtain reasonable assurance that the contractor used efficient methods and effective cost controls.

Can a non-state entity award cost-plus-a-percentage-of-cost contracts or contracts with a percentage-of construction-cost method in an exigency or emergency?

No. This prohibition applies to all work, regardless of the circumstances (2 C.F.R. § 200.323(d)).

Can non-state entities use *piggyback* contracts in an exigency or emergency?

Piggyback contracting occurs when one entity with an existing contract assigns some or all of its contractual rights to another entity that was not previously party to the contract. Generally, FEMA discourages piggyback contracts because the original contract pertains to the needs of the original entity with a specific scope of work for that entity. While there may be circumstances when piggybacking is permissible, in almost all instances, the scope of work would need to be changed to include the needs of a non-state entity, and changes to the scope of work are generally not permitted as there is not likely to be full and open competition for the expanded scope of work. However, during emergency and exigency circumstances, non-state entities may be able to piggyback another entity's contract and expand the scope of a contract for the period of the emergency or exigency circumstance.

Note that a non-state entity may choose to enter into a separate contract with the same contractor as another entity, using the same terms and conditions as in that other entity's contract, with only a change in the scope of work and the associated costs. However, this is sole-source contracting rather than piggyback contracting, and it must meet the requirements for noncompetitive procurement under exigency or emergency circumstances as described elsewhere in this Fact Sheet.

If a non-state entity is contemplating the use of piggyback contracting, it should contact its state or territory liaison, or the applicable FEMA Program Office to request FEMA assistance with contract review. For assistance with FEMA contact information, the entity should contact the Centralized Scheduling and Information Desk (CSID) help line at (800) 368-6498 or askcsid@fema.dhs.gov. CSID hours of operation are from 9 a.m. to 5 p.m. ET, Monday through Friday.

Can states use time and materials (T&M) or cost-plus-percentage-of-cost (CPPC) contracts in an exigency or emergency?

While the Federal procurement rules do not prohibit the use of T&M contracts and CPPC contracts by states, FEMA discourages states from using these contracts because they generally lack provisions that control costs and maximize efficiency in performing work. FEMA and the OIG closely scrutinize these types of contracts for cost reasonableness.

Although T&M contracts are discouraged, there may be instances where T&M contracts are appropriate in the short term for activities such as debris removal, emergency power restoration, or other immediate actions required to address emergency health and safety threats under a Public Assistance award. States

entering into T&M contracts are encouraged to include language in the contract that specifies a ceiling price and limits the duration of the contract to a short time period, thus providing the state time to develop a scope of work and transition to the more competitive procurement procedures.

As a reminder, 2 C.F.R. § 200.317 requires states to follow: (1) the same policies and procedures they use for procurements using non-Federal funds; (2) 2 C.F.R. § 200.322 (procurement of recovered materials); and (3) 2 C.F.R. § 200.326 (required contract provisions). These requirements apply regardless of whether exigency or emergency circumstances exist. States must ensure that they are also in compliance with the cost principles in 2 C.F.R. §§ 200.400 – 200.474, including ensuring that costs are reasonable, as defined in 2 C.F.R. § 200.404.

Additional Information and Resources

Non-state entities should consult as soon as possible with all appropriate parties, including their own legal counsel, to review their procurement policies, actions, and contracts and compare them to the Federal procurement requirements. Non-state entities also should contact their state or territory liaisons, or applicable FEMA Program Office to request assistance with any procurement activity concerns. For assistance with FEMA contact information, the entity should contact the Centralized Scheduling and Information Desk (CSID) help line at (800) 368-6498 or askcsid@fema.dhs.gov. CSID hours of operation are from 9 a.m. to 5 p.m. ET, Monday through Friday.

Detailed procurement and contracting information is available on the FEMA website at www.fema.gov/procurement-disaster-assistance-team. While the guidance available at that website is specifically applicable to FEMA's Public Assistance Program, it is a useful resource for FEMA's other grant programs as the procurement requirements in 2 C.F.R. Part 200 apply to all of FEMA's grant programs. The current Code of Federal Regulations referenced in this guidance can be accessed at www.eCFR.gov. The annual Code of Federal Regulations is available at <https://www.govinfo.gov/app/collection/cfr>, and the applicable regulations will be the ones in place at the time FEMA issued the declaration or made the award.

Suggested Elements for Noncompetitive Procurement Justification

1. Identify which of the four circumstances listed in 2 C.F.R. § 200.320(f) justify a noncompetitive procurement:
 - (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.
2. Provide a brief description of the product or service being procured, including the expected amount of the procurement.
3. Explain why a noncompetitive procurement is necessary. If utilizing the exigency/emergency exception, the justification should explain the nature of the public exigency or emergency, including specific conditions and circumstances that clearly illustrate why procurement other than through noncompetitive proposals would cause unacceptable delay in addressing the public exigency or emergency. (Failure to plan for transition to competitive procurement cannot be the basis for continued use of noncompetitive procurement based on public exigency or emergency).
4. State how long the noncompetitively procured contract will be used for the defined scope of work and the impact on that scope of work should the noncompetitively procured contract not be available for that amount of time (e.g., how long do you anticipate the exigency or emergency circumstances will continue; how long will it take to identify your requirements and award a contract that complies with all procurement requirements; or how long would it take another contractor to reach the same level of competence).
5. Describe the specific steps taken to determine that full and open competition could not have been used, or was not used, for the scope of work (e.g., research conducted to determine that there were limited qualified resources available that could meet the contract provisions).
6. Describe any known conflicts of interest and any efforts that were made to identify possible conflicts of interest before the noncompetitive procurement occurred. If no efforts were made, explain why. If a conflict of interest is unavoidable, such as due to exigent/emergency circumstances, explain how it was unavoidable and any steps taken to address the impact of that conflict of interest.
7. Include any other information justifying the use of noncompetitive procurement in the specific instance.

NOTE: A separate justification is required for each instance of noncompetitive procurement.

7. Supplies and Commodities

The purchase of supplies and commodities required for emergency protective measures is eligible.

Costs related to the Applicant purchasing supplies or using its own stock to perform Emergency Work are eligible and reimbursed in accordance with [Chapter 2:V.D](#). Examples include, but are not limited to, safety equipment, personal protective equipment, radios, power tools, sand, and tarps.



Purchasing and packaging life-saving and life-sustaining commodities and providing them to the impacted community are eligible. Examples of such commodities include, but are not limited to, food, water, ice, personal hygiene items, cots, blankets, tarps, plastic sheeting for roof damage, and generators, as well as food and water for household pets and service animals. The cost of delivering these same commodities to unsheltered residents in communities where conditions constitute a level of severity such that these items are not easily accessible for purchase is also eligible. This includes food and water for household pets whose owners are in shelters.

The cost of leasing distribution and storage space for the commodities is also eligible.

8. Meals

Applicants often provide meals for emergency workers. Provision of meals, including beverages and meal supplies, for employees and volunteers engaged in eligible Emergency Work, including those at EOCs, is eligible provided the individuals are not receiving per diem and one of the following circumstances apply:

- Meals are required based on a labor policy or written agreement that meets the requirements of [Chapter 2:V.A.1](#);
- Conditions constitute a level of severity that requires employees to work abnormal, extended work hours without a reasonable amount of time to provide for their own meals; or
- Food or water is not reasonably available for employees to purchase.

FEMA only reimburses the cost of meals that are brought to the work location and purchased in a cost-effective and reasonable manner, such as bulk meals. FEMA does not reimburse costs related to group outings at restaurants or individual meals.¹⁸⁴

9. Medical Care

When the emergency medical delivery system within a declared area is destroyed, severely compromised or overwhelmed, FEMA may fund extraordinary costs associated with operating emergency rooms and with providing temporary facilities for emergency medical care of survivors. Costs associated with emergency medical care should be customary for the emergency

¹⁸⁴ FEMA reimburses meal costs as part of a contract in accordance with the contract terms provided it meets the requirements in [Chapter 2:V.G](#).

medical services provided. Costs are eligible for up to 30 days from the declaration date unless extended by FEMA.

Eligible medical care includes, but is not limited to:

- Triage and medically necessary tests and diagnosis
- Treatment, stabilization, and monitoring
- First-aid assessment and provision of first aid
- A one-time 30-day supply of prescriptions for acute conditions or to replace maintenance prescriptions
- Vaccinations for survivors and emergency workers to prevent outbreaks of infectious and communicable diseases
- Durable medical equipment
- Consumable medical supplies
- Temporary facilities, such as tents or portable buildings for treatment of survivors
- Leased or purchased equipment for use in temporary medical care facilities
- Security for temporary medical care facilities
- Use of ambulances for distributing immunizations and setting up mobile medical units

Long-term medical treatment is not eligible. FEMA determines the reasonableness of these costs based on Medicare's cost-to-charge ratio (a ratio established by Medicare to estimate a medical service provider's actual costs in relation to its charges).

FEMA does not provide PA funding for these costs if underwritten by private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.¹⁸⁵ The Applicant must take reasonable steps to provide documentation on a patient-by-patient basis verifying that insurance coverage or any other source funding including private insurance, Medicaid, or Medicare, has been pursued and does not exist for the costs associated with emergency medical care and emergency medical evacuations.

Ineligible costs include:

- Medical care costs incurred once a survivor is admitted to a medical facility on an inpatient basis
- Costs associated with follow-on treatment of survivors beyond 30 days of the declaration
- Administrative costs associated with the treatment of survivors



Terminology

Durable medical equipment is reusable medical equipment necessary for the treatment of an illness or injury or to prevent a patient's further deterioration. The equipment includes, but is not limited to:

- Oxygen equipment
- Wheelchairs
- Walkers
- Hospital beds
- Crutches
- Other medical equipment

Consumable medical supplies are medical supplies that are ingested, injected, or applied or are for one-time use only, including, but not limited to:

- Medical supplies
- Medications
- Diapers
- Adult incontinence briefs
- Bandages

¹⁸⁵ Stafford Act § 312, 42 U.S.C. § 5155.

10. Evacuation and Sheltering

Evacuation and sheltering of survivors are eligible activities. This includes household pets and service and assistance animals, but not exhibition or livestock animals.

(a) *Evacuation Including Accessible Transportation and Emergency Medical Transportation*

Transportation of evacuees, household pets, service animals, luggage, and durable medical equipment is eligible. This includes emergency medical transportation. The mode of transportation should be customary and appropriate for the work required. Eligible activities include, but are not limited to:

- Transferring patients from inoperable, compromised, or overwhelmed eligible medical or custodial care facilities to another medical facility or to a shelter.
- Transferring patients back to original medical or custodial care facility, when appropriate.
- Transporting survivors, including shelterees, who require emergency medical care to and from the nearest existing or temporary medical care facility equipped to adequately treat the medical emergency. Transport may include emergency air, sea, or ground ambulance services if necessary.
- Use of equipment such as buses, trucks, or other vehicles (including accessible vehicles) to provide one-time transportation to evacuate survivors and their household pets and service and assistance animals to emergency shelters from pre-established pick-up locations. This includes stand-by time for drivers and contracted equipment while waiting to transport survivors.
- Paratransit transportation services, such as vans, minibuses, and buses, (including accessible vehicles) to transport senior citizens, individuals with disabilities (including mobility disabilities) or access and functional needs, individuals in nursing homes and assisted-living facilities, and homebound individuals impacted by the incident.
- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips for the purpose of tracking evacuated animals.
- Food and water provided during transport.
- Emergency medical care provided during transport, including emergency medical personnel and supply costs.
- Stabilization of individuals injured during evacuation.



Terminology

Household pets are domesticated animals that:

- Are traditionally kept in the home for pleasure rather than for commercial purposes
- Can travel in commercial carriers
- Can be housed in temporary facilities

Examples are dogs, cats, birds, rabbits, rodents, and turtles.

Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing purposes.

Service animals are dogs that are individually trained to do work or perform tasks for people with disabilities or access and functional needs.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or provide emotional support that alleviates identified symptoms or effects of a person's disability.

Although dogs are the most common type of assistance animal, other animals can also be assistance animals.

- Costs incurred in advance of an incident necessary to prepare for evacuations in threatened areas. Costs may include mobilization of ambulances and other transport equipment. Contracts for staging ambulance services must be part of the State, Territorial, Tribal, or regional evacuation plan. Costs of staging ambulances are eligible even if the incident does not impact the area normally served by those ambulances. PA funding for activating, staging, and using ambulance services ends when any of the following occurs:



- FEMA, and the State, Territorial, or Tribal Government, determines that the incident did not impact the area where it staged ambulances;
- Evacuation and return of medical patients and individuals with disabilities or access and functional needs is complete; or
- The immediate threat caused by the incident has been eliminated and the demand for services has returned to normal operation levels.

FEMA does not provide PA funding for ambulance services that are covered by private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.¹⁸⁶

(b) Sheltering

FEMA provides PA funding to State, Territorial, Tribal, and local government Applicants for costs related to emergency sheltering for survivors. Typically such sheltering occurs in facilities with large open spaces, such as schools, churches, community centers, armories, or other similar facilities. FEMA refers to these shelters as congregate shelters.

Generally, FEMA does not provide PA funding for emergency sheltering in non-congregate environments, which are locations where each individual or household has living space that offers some level of privacy (e.g., hotels, motels, casinos, dormitories, retreat camps, etc.). In limited circumstances, such as when congregate shelters are not available or sufficient, FEMA may reimburse costs related to emergency sheltering provided in non-congregate environments.

FEMA’s Assistant Administrator for Recovery has the authority to approve this policy exception. The Applicant must submit a request for PA funding for costs related to emergency, non-congregate sheltering and obtain FEMA approval prior to sheltering survivors in non-congregate facilities. At a minimum, the Applicant should include the following information in its request:

- Justification for the necessity of non-congregate sheltering;
- Whether the State or Tribal Government has requested Transitional Sheltering Assistance;



Transitional Sheltering Assistance Program

FEMA’s Transitional Sheltering Assistance program provides short-term lodging to eligible survivors who, after an evacuation, cannot return to their homes for an extended period of time because their community is either uninhabitable or inaccessible as a result of the incident.

FEMA implements and manages Transitional Sheltering Assistance directly through a contract agent.

¹⁸⁶ Stafford Act § 312, 42 U.S.C. § 5155.

- The type of non-congregate sheltering available and which type the Applicant intends to utilize;
- An analysis of the available options with the associated costs of each option; and
- The time frame requested (i.e., date of activation and length of time).¹⁸⁷

FEMA will limit any approval to that which is reasonable and necessary to address the needs of the event (generally no more than 30 days). FEMA determines the eligible costs based on the contractual agreement, including reimbursement for repairing damage if it is the Applicant's legal responsibility based on the agreement. The Applicant must obtain FEMA approval for any time extensions, which should include a detailed justification for the continued need and a revised analysis of options, including the costs for each option.

If FEMA approves the request, the Recipient will need to maintain tracking mechanisms to provide sufficient data and documentation to establish eligibility (including the need for non-congregate sheltering resulting from the disaster, reasonableness, and costs). Sufficient documentation includes:

- The number of non-congregate shelterees:
 - By age groups 0-2, 3-6, 7-12, 13-17, 18-21, 22-65, and 66+;
 - With disabilities or access and functional needs;
 - Registered for assistance from FEMA's IA Programs; and
 - Referred to State or non-governmental organization programs for assistance.
- Number of household pets, and assistance and service sheltered and the type of shelter provided (e.g., stand alone, co-located, or co-habitational);
- Length of stay per "household unit;" and
- Number of meals and other services provided.

As with any activity, lack of full documentation may result in FEMA determining that some or all of the costs are ineligible.

Eligible costs related to sheltering include, but are not limited to, the items listed below, as necessary based on the type of shelter and the specific needs of the shelterees. If any of the items listed are donated, including labor, the Applicant may offset the non-Federal share of its eligible Emergency Work projects in accordance with [Chapter 2:V.L](#). Sheltering and caring for household pets is only eligible while the pet owner is in an emergency shelter.

Shelter Facility Costs

- Facility lease or rent, including space for food preparation
- Utilities such as power, water, and telephone
- Minor facility modifications if necessary to make the facility habitable, compliant with the Americans with Disabilities Act (ADA), functional as a child care facility, or functional as an animal shelter
- Restoration to return the facility to its condition prior to use
- Generator costs
- Secure storage space for medical supplies

¹⁸⁷ 44 CFR §§ 206.225(a)(2) and 206.202(c) and (d).

If an eligible State, Territorial, Tribal, or local government Applicant owns or leases the shelter facility, and a volunteer agency operates the shelter, the facility costs described above are eligible. However, the labor costs for the volunteer agency's workers are not eligible (except as a donated resource in accordance with the criteria in [Chapter 2:V.L](#)).

Shelter Staff Costs

- Medical staff
- Personal assistance service staff
- Veterinary staff
- Public Information Officer
- Social workers
- Food service workers
- Custodial and facilities staff
- National Guard personnel (See [Chapter 2:V.J](#))

Shelter Supplies and Commodities

- Hot and cold meals, snacks, beverages, and related supplies for survivors
- Cooking and serving supplies
- Food, water, and bowls for household pets and service and assistance animals
- Durable medical equipment
- Consumable medical supplies
- Medication for animal decontamination and parasite control
- Infant formula, baby food, and diapers
- Refrigerators, microwaves, and crock pots
- Cots, cribs, linens, blankets, pillows, tables, and chairs
- Crates, cages, leashes, and animal transport carriers
- Personal hygiene kits with items such as shampoo, soap, toothpaste, a toothbrush, towels, and washcloths
- Animal cleaning tables and supplies
- Televisions or radios – one per 50 shelterees
- Basic cable service
- Computers – one per 25 shelterees
- Internet service
- Washers and dryers – one of each per 50 shelterees
- Toys and books

Shelter Services

Shelter services are eligible for the time the facility is actively used to shelter survivors.

- Shelter management
- Supervision of paid and volunteer staff
- Cleaning the shelter, linens, and animal crates
- Shelter safety and security

- Use of equipment, such as ambulances, buses, trucks, or other vehicles, to provide sheltering support
- Phone banks for survivors
- Care for survivors with disabilities or access and functional needs, including the provision of the following personal assistance services:
 - Grooming, eating, walking, bathing, toileting, dressing, and undressing
 - Movement between a cot and wheelchair (transferring)
 - Maintaining health and safety
 - Taking medications
 - Communicating or accessing programs and services
- Emergency medical and veterinary services for sheltered survivors, household pets, and service and assistance animals, including:
 - Emergency and immediate life stabilizing care, including necessary prescriptions (not to exceed 30-day supply)
 - Triage, medically necessary tests, diagnosis, treatment, stabilization, and monitoring
 - First-aid assessment
 - Provision of first aid and health information
 - Care for evacuees with chronic conditions
 - Administering vaccinations to shelterees and workers for transmissible or contagious diseases, including, but not limited to, tetanus and hepatitis
 - Administering vaccinations to household pets, and service and assistance animals, for transmissible or contagious diseases, including, but not limited to, Bordetella (kennel cough)
 - Medical waste disposal
 - Mental-health care
 - Outpatient costs for sheltered survivors requiring emergency life-sustaining treatment not available at the shelter for the period of time that a survivor is housed in a congregate shelter. Eligible outpatient services are limited to:
 - Physician services in a hospital outpatient department, urgent care center, or physician's office;
 - Related outpatient hospital services and supplies, including X-rays, laboratory and pathology services, and machine diagnostic tests; and
 - Local professional transport services to and from the nearest hospital equipped to adequately treat the emergency.
- Sheltering self-evacuees (self-evacuee transportation costs are not eligible)
- Costs paid to the American Red Cross (ARC) or other Non-Governmental Organizations (NGO) to operate shelters under a written agreement [costs that ARC or other NGOs incur under their own authorities (i.e., independent of any Federal, State, Tribal, or local request) are not eligible for reimbursement]

(c) *Child Care Services*

FEMA reimburses State, Territorial, Tribal, and local governments for the cost of providing licensed child care services to support sheltered populations. This includes the cost of the labor, facility, supplies, and commodities. Additionally, FEMA may provide PA funding for the cost of

child care services that the eligible Applicant provides to other survivors, and beyond the period of emergency sheltering, with certification that temporary child care is necessary to meet immediate threats to life, public health and safety, or property.

Child care includes services such as:

- Day care for children
- Before- and after-school care

The Applicant may provide these services within a shelter facility or in a separate facility, as appropriate. FEMA PA staff will coordinate with IA staff to ensure there is no duplication with IHP assistance.

(d) Host-State or Host-Tribe Evacuation and Sheltering

If the impacted State or Tribe (Impact-State or Impact-Tribe)¹⁸⁸ has evacuation and sheltering needs beyond its ability to address within its jurisdictional area, it may request assistance either from another State or Tribal Government (Host-State or Host-Tribe)¹⁸⁹ through mutual aid agreements such as EMAC, or from FEMA.

If the Impact-State/Tribe requests assistance directly from another State or Tribal Government, FEMA reimburses costs based on the mutual aid agreement as described in [Chapter 2:V.H](#). FEMA may also provide PA funding to a Host-State/Tribe directly, even if the Impact-State/Tribe already requested assistance directly from that Host-State/Tribe, provided that:



- The Host-State/Tribe agrees to accept evacuees based on need—without restriction;
- The Host-State/Tribe makes at least 10 percent of its normal day-to-day sheltering capacity available;
- An authorized official from the Host-State/Tribe transmits a written agreement of these two terms to FEMA; and
- The Governor or Tribal Chief Executive of the Host-State/Tribe signs the FEMA/Host-State or FEMA/Host-Tribe Agreement pursuant to the terms and conditions in 44 CFR § 206.44, FEMA-State Agreements, to establish the Host-State/Tribe as the Recipient.¹⁹⁰

If the Impact-State/Tribe requests assistance from FEMA, FEMA determines whether potential Host-States/Tribes have sufficient capability to meet some or all of the sheltering and evacuation needs of the Impact-State/Tribe. If FEMA determines a potential Host-State/Tribe has sufficient

¹⁸⁸ Impact-State or Impact-Tribe means the State or Tribal Government for which the President declared an Emergency or Major Disaster and requested FEMA assistance because of a need to evacuate and/or shelter affected individuals outside the State.

¹⁸⁹ Host-State or Host-Tribe means a State or Tribal Government that by agreement with FEMA provides sheltering or evacuation support to evacuees from an Impact-State or Impact-Tribe.

¹⁹⁰ 44 CFR § 206.202(f)(1)(i).

capability and the Host-State/Tribe meets the three conditions described above, FEMA provides PA funding to the Host-State/Tribe directly.¹⁹¹

When FEMA provides PA funding directly to a Host-State/Tribe, FEMA reimburses 100 percent of the Host-State/Tribe's eligible costs, including straight-time and benefits of the Host-State/Tribe's permanent employees¹⁹² so that they have no out-of-pocket costs. In these cases, the Impact-State/Tribe is responsible for the non-Federal cost share and must subsequently reimburse FEMA for the non-Federal cost share of the eligible costs incurred by the Host-State/Tribe. The non-Federal cost share is based on the Category B cost-share amount designated in the declaration. The Impact-State/Tribe cannot offset its non-federal cost share with the Host-State/Tribe's volunteer labor.

In addition to the evacuation and sheltering costs noted in [Chapter 2:VI.B.10](#), FEMA also reimburses Host-States/Tribes for the following:

- Straight-time and benefits of entities' employees that provide assistance under a mutual aid agreement or a contract with the Host-State/Tribe such as a local government or PNP.
- Costs to provide the requested shelter capacity, even if the shelter was underused or not used at all.
- Costs related to arrest and incarceration of evacuees who commit unlawful acts in a Host-State/Tribe congregate shelter, including costs incurred by on-duty law enforcement officers in order to detain, take into custody, or make an arrest (costs of chemical tests, processing, charging, booking, and holding such persons are not eligible costs). Costs to transport a detainee back to the shelter is eligible if the individual was not charged.
- When patients in hospitals in the Impact-State/Tribe are evacuated, transported, and admitted into hospitals in the Host-State/Tribe through mission assignment with U.S. Department of Health and Human Services (HHS), and the patients are treated and discharged but require follow-on care while they await transport and shelters are not available, the costs that a Host-State/Tribe's hospital incurs for hotel rooms during patients' follow-on care until the patients can be transported back to the Impact-State/Tribe, provided that Medicare, Medicaid, or private insurance does not cover these costs.
- Bus or shuttle transport to pick up evacuees at the airport, train station, or bus terminal when the expected plane, train, or bus is re-routed, canceled, or rescheduled.
- Ambulance costs for hospital-to-hospital transfers, provided it is a transfer within the Host-State/Tribe.
- When the Impact-State/Tribe determines that it is safe for re-entry, it will coordinate with the Host-State/Tribe and FEMA to return evacuees, household pets, and service and assistance animals to the Impact-State/Tribe by air, rail, or bus. Return transportation costs are eligible along with food, water, and security during transport.
- Return transportation costs for family members of an Impact-State/Tribe evacuee who was admitted to a hospital after the congregate shelters close.
- When evacuees are discharged from a hospital after all congregate shelters have closed and transportation cannot be arranged for departure on the same day discharged, FEMA will reimburse up to five (5) nights of hotel lodging while awaiting return transport.

¹⁹¹ 44 CFR § 206.208(c)(3).

¹⁹² 44 CFR § 206.202(f)(1)(ii).

- FEMA will reimburse a State agency from the Impact-State/Tribe for the transportation costs and related expenses to transport deceased evacuees and accompanying family members to the Impact-State/Tribe. The costs of State/Tribe-mandated embalming or cremation of the body prior to return are also eligible.

The Host-State/Tribe must determine whether any ambulance or medical service costs are covered by a patient's private insurance, Medicare, Medicaid, or a pre-existing private payment agreement as FEMA will deduct this amount from the Host-State/Tribe's eligible cost.

Fees that a Host-State/Tribe waives for the use of State parks by self-evacuees with recreational vehicles (RVs) are not eligible. Additionally, purchase and distribution of gas cards, bus passes, cash vouchers, debit cards, food vouchers, or direct payments to evacuees are not eligible.

11. Infectious Disease Event

The HHS Centers for Disease Control and Prevention (CDC) has primary authority to enable support and assistance to States, Territorial, or Tribal Governments in response to an infectious disease event. FEMA may provide assistance for the rescue, evacuation, and movement of persons; movement of supplies; and care, shelter, and other essential needs of affected human populations. Any assistance provided by FEMA in response to an infectious disease event is done in coordination with the CDC. The Office of Response and Recovery Fact Sheet FP 104-009-001, *Infectious Disease Event*, provides additional details.¹⁹³

12. Mosquito Abatement

Mosquito abatement measures may be eligible when a State, Territorial, Tribal, or local government public health official validates in writing that a mosquito population poses a specific health threat as discussed further in [Appendix G: Mosquito Abatement](#). FEMA consults with the CDC to determine the eligibility of mosquito abatement activities. FEMA only provides PA funding for the increased cost of mosquito abatement. This is the amount that exceeds the average amount based on the last 3 years of expenses for the same period.

13. Residential Electrical Meters

To reduce the number of survivors needing shelter, FEMA may provide limited PA funding to a State, Territorial, Tribal, or local government to repair residential electrical meters. To receive PA funding, the State, Territorial, Tribal, or local government must:

- Issue a finding of an immediate threat to safety due to loss of power caused by damaged meters or weather heads;
- Request participation in this program; and
- Receive FEMA approval for each identified property.

Only residential properties are eligible for this program. Commercial properties, including apartment complexes, are not eligible.

If approved, the applicable State, Territorial, Tribal, or local government will:

- Obtain a signed right-of-entry from each residential property owner;
- Take reasonable measures to document any known insurance proceeds;
- Contract with licensed electricians to perform electrical meter repair;

¹⁹³ www.fema.gov/media-library/assets/documents/99710.

FACT SHEET

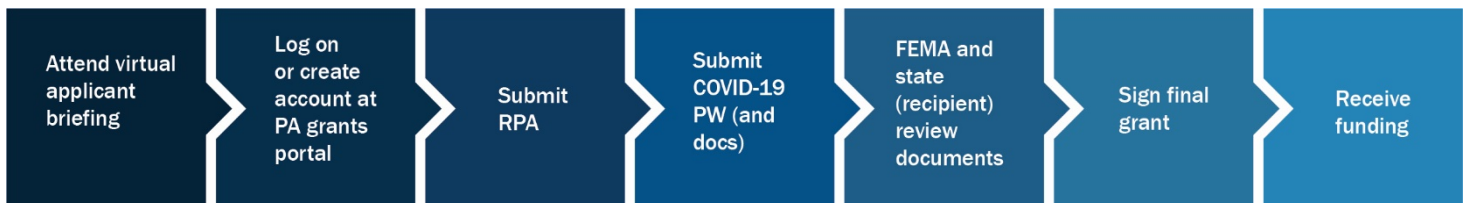
Coronavirus (COVID-19) Pandemic: Public Assistance Simplified Application

This Fact Sheet supplements *Fact Sheet: Coronavirus (COVID-19) Pandemic Emergency Protective Measures* and provides an overview of the FEMA Public Assistance application process for recipients and applicants requesting reimbursement related to federal emergency and major disaster declarations for Coronavirus 2019 (COVID-19). FEMA is simplifying the Public Assistance application and funding process to address the magnitude of this event and allow local officials to receive eligible funding more quickly.

FEMA is simplifying the Public Assistance application process. FEMA is developing a simplified online form applicants can complete, and on which they may explain work activities, answer basic questions, provide limited supporting documentation, and provide a cost estimate. FEMA and the recipient will review this information, follow up with limited requests for additional information if necessary, and award assistance. Recipients will have access to all projects in [PA Grants Portal](#), consistent with the traditional PA process.

The national emergency declaration authorized Public Assistance Category B reimbursement for emergency protective measures. It does not include additional categories of assistance, such as infrastructure repair and replacement, which are needed after typical natural disasters. This enables FEMA to eliminate many application steps that are designed for those categories, including: eliminating exploratory calls, recovery scoping meetings, and most site inspections; and reducing documentation requirements to the minimum needed to support Category B reimbursement.

Recipients are states, tribes, or territories that receive and administer Public Assistance awards. Applicants are state, local, tribal and territorial governments, or eligible private nonprofits, submitting a request for assistance under a recipient's federal award.



Applicants are empowered to drive their own recovery and directly apply for reimbursement without waiting for FEMA to assign a Program Delivery Manager. FEMA is simplifying the process so applicants may directly apply for assistance through the [PA Grants Portal](#).

As FEMA and recipients implement these changes, FEMA will continue to process and fund Public Assistance projects. Funding is immediately available should state, tribal, territorial or local officials request expedited assistance. Prior to funding, recipients must sign FEMA-State/Tribal/Territorial Agreements, submit signed Federal Grant Applications (SF-424), and update Recipient Public Assistance Administrative Plans. Recipients should start [setting up Grants Portal accounts](#) for themselves and applicants at grantee.fema.gov so they can



FEMA

apply for assistance. Once an account is created, Applicants may [submit Requests for Public Assistance](#) to begin the application process.

FEMA is working to rapidly scale up the information, tools and technology necessary to provide assistance to all applicants. Eligibility guidance on what FEMA can fund will be updated on the Public Assistance Policy, Guidance, and Factsheets [page on FEMA.gov](#) and the [COVID-19 page on FEMA.gov](#). Application support and tutorials are available on the resource tab in [PA Grants Portal](#).

More Information

For more information, visit the following websites:

1. [Public Assistance Program and Policy Guide](#)
2. [FEMA.gov/Coronavirus](#)
3. [Coronavirus \(COVID-19\)](#) (CDC)

TALKING POINTS

PA Application Simplification for Nationwide Emergency Declaration for COVID-19

Top Line Messages:

- FEMA is simplifying the Public Assistance application and funding process to address the magnitude of this event and allow local officials to receive eligible funding more quickly.
- Public Assistance applicants are empowered to drive their own recovery and directly apply for reimbursement through a streamlined process designed to eliminate portions of the process that are unnecessary for the unique circumstances of, and types of assistance available for, response to COVID-19.
- While FEMA is making adjustments to streamline processes, we are keeping the adjustments as simple as possible and not deviating from the basic process with which experienced recipients and applicants are familiar.
- Funding is immediately available should local officials need expedited assistance.
- This is a dynamic environment. FEMA will be quick and clear in communicating changes. But the entire emergency management community should prepare for further adjustments in the delivery of Public Assistance for COVID-19 as we work together to assist the American people.

Applicants are empowered to drive their own recovery and directly apply for reimbursement without an assigned Program Delivery Manager.

- The nature and scale of this national event are beyond anything the emergency management community has seen, with the most simultaneous FEMA PA applicants and project worksheets in the history of the program.
- Additionally, FEMA and recipient staff must alter work practices to follow CDC and local health official social distancing guidelines in order to slow the spread of COVID-19.
- To scale to an event of this size and maintain social distancing, it is not possible for FEMA or recipients to proactively work with every applicant to develop their subgrant project worksheets, as would be the case in a traditional disaster.
- Instead, FEMA is allowing applicants to directly apply for assistance in the PA Grants Portal at <https://grantee.fema.gov>.
- This prevents the need for applicants to wait on the availability of limited federal and recipient resources and provide applicants a transparent environment to request and quickly receive federal assistance.



FEMA



PUBLIC ASSISTANCE: REASONABLE COST EVALUATION

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to States, Territories, Tribes, and local governmental entities, as well as certain private nonprofit (PNP) organizations (hereinafter referred to as Applicants). FEMA's *Public Assistance Program and Policy Guide* (<http://www.fema.gov/public-assistance-policy-and-guidance>) provides comprehensive information regarding assistance that FEMA can provide and the requirements that Applicants must follow in order to receive the assistance. This Job Aid supersedes FEMA's *Public Assistance Alternative Procedures Pilot Program Validation of Subgrantee-Provided Cost Estimates Job Aid*, dated May 20, 2013. It provides uniform guidance to FEMA personnel on evaluating cost reasonableness for Federal funds expended by non-Federal entities, also referred to as Applicants in this guidance, under the PA Program in accordance with Title 2 Code of Federal Regulations (CFR) § 200.404, and for disasters declared prior to December 26, 2014, in accordance with 44 CFR part 13 and the Office of Management and Budget (OMB) Circular A-87. This Job Aid includes a checklist in Appendix A: *Validation of Applicant-Provided Cost Estimates*, which FEMA staff must use to review and validate cost estimates submitted to FEMA for Permanent Work.

Applicability

This guidance applies to any assessment of cost reasonableness undertaken by FEMA for relevant work completed under a PA grant award or subaward. It provides general information to guide FEMA personnel in evaluating whether costs are reasonable including when necessary as the result of a financial review such as closeout or administrative appeals, Department of Homeland Security Office of the Inspector General (DHS OIG) audits, single audits under 2 CFR part 200, and Improper Payments Elimination and Recovery Act audits.

Cost eligibility is a basic component of PA Program eligibility, and in order for a cost to be considered allowable, it must be necessary and reasonable to accomplish the work properly and efficiently.¹ FEMA evaluates cost reasonableness for all projects. In addition, the determination of cost reasonableness is also instructive with regard to grant non-compliance enforcement remedies. Generally, FEMA considers an Applicant's force account labor, equipment, and materials costs as reasonable provided the costs are consistent with the entity's policies including, but not limited to, pay rates, labor policies, and cost schedules utilized during its normal operations. Contract costs are generally considered reasonable when the Applicant adheres to full and open competition under applicable Federal procurement under grant requirements, and the scope of services or work in the contract and level of effort is consistent with respect to the eligible scope of work. For these situations, FEMA staff are not required to perform a detailed cost reasonableness analysis.

¹ 2 CFR § 200.403

Reasonable Costs – General Information

Definition²

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Factors to Consider in Determining Reasonable Costs³

FEMA considers many factors in evaluating whether costs are reasonable, including:

Factor	Example
Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the Applicant or the proper and efficient performance of the Federal award	The appropriate skill level and/or level of effort to complete the required activity
The restraints or requirements imposed by such factors as: sound business practices; arm’s length bargaining; Federal, Tribal, State, local, and other laws and regulations; and terms and conditions of the Federal award	Whether the Applicant participated in ethical business practices, ensuring parties to a transaction are independent of each other, without familiar ties or shared interests and on equal footing without one party having control of the other
Market prices for comparable goods or services for the geographic area, particularly in the context of post-disaster conditions, which may cause shortages of skilled labor, building materials, and energy sources	When escalated costs are due to shortages, FEMA considers whether the Applicant’s work continued beyond the period of shortages and whether there was an opportunity for the Recipient/Subrecipient to obtain more reasonable pricing
Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the Applicant, its employees, its students or membership, the public at large, and the Federal Government	Were there emergency or exigent circumstances?
Whether the Applicant significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award’s cost	Did the Applicant comply with procurement requirements?

FEMA also considers project-specific complexities that may affect costs, such as: environmental or historic issues; remote access or location; provision of a unique service with few providers; and elements requiring an extraordinary level of effort.

² 2 CFR § 200.404; OMB Circular A-87

³ Id.

Process to Determine Reasonable Costs

In conducting a reasonable cost analysis, FEMA will perform a preliminary review of the documentation to assess the complexity of the project and expertise required to complete the analysis. If specialized expertise is required, FEMA will utilize a subject matter expert with the appropriate specialized skills, knowledge, experience, or capability in the appropriate field such as engineering, architecture, or cost estimating.

FEMA, in consultation with the subject matter experts as necessary, will then determine the appropriate methodology or methodologies to assess reasonable costs. This assessment will be based on several factors, such as the circumstances surrounding the event, availability of materials, project type, complexity, sole sourcing, best construction practices, codes and standards, and other relevant information available at the time of evaluation. This may require requesting additional information from the Applicant. If the Applicant does not provide supporting documentation, FEMA will inform the Applicant of the determination to deobligate funding or to deny obligation of funding, as applicable, and the Applicant may appeal the determination and provide necessary information at that time.

If the costs determined reasonable are lower than actual costs for the subaward, FEMA's Office of Chief Counsel (OCC) may also review the findings, where warranted. An example of where engagement with OCC may be necessary is determining if an Applicant's contract evaluation (resulting in award to higher bidder) was performed correctly. While PA costing specialists have the qualifications to determine reasonable costs, OCC has contracting and procurement qualifications and PA should engage OCC in such an evaluation whenever uncertain contract award selection questions arise.

FEMA will record the results of the reasonable cost analysis in the appropriate award file or Grants Management System.

Methodology to Determine Reasonable Costs

The method(s) used to evaluate costs will depend on the type of project and the resources and information available. The first step in any evaluation of reasonable costs is to verify that all items of work included in the cost are eligible. If an item is not eligible based on the approved scope of work, FEMA will remove the associated cost from the estimate. FEMA will then notify the Recipient and Subrecipient accordingly if ineligible items have been removed. FEMA then evaluates whether costs for the approved scope of work are comparable to relevant current market prices for similar goods or services using the best information available for the project, which may include any of the following resources.

1. Validation of Recipient or Subrecipient's Cost or Price Analysis

Per 2 CFR § 200.323(a), non-State Applicants must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular procurement situation, but as a starting point, the non-State Applicant must make independent estimates before receiving bids or proposals. While State entities are not required by 2 CFR § 200.323(a) to conduct a cost or price analysis, it is advisable that they do so in completing their procurements.

When an Applicant provides a cost or price analysis, FEMA will review the analysis as part of its evaluation of reasonable costs. For example, this may be useful in evaluating reasonableness when price competition is lacking or when the selection was non-compliant with the applicable procurement under grant requirements even though there may have been price competition.

If the Applicant does not submit a cost or price analysis (because not required to do one in the case of State entities, or because it did not do one as required in the case of non-State entities) and price competition was lacking or its selection was non-compliant with the applicable procurement under grant requirements, then FEMA should identify the elements that would otherwise have been a part of a cost or price analysis (for more information, see the detailed resources available from FEMA's Procurement Disaster Assistance Team here: <https://www.fema.gov/procurement-disaster-assistance-team>). FEMA may request that the Applicant provide this information in order to evaluate reasonable costs.

The cost or price analysis is one component of documentation that an Applicant may use to support that its costs are reasonable. FEMA may use the methodologies described below to evaluate costs both in conjunction with, and in the absence of, this information, as appropriate.

2. Historical Costs and Average Weighted Unit Prices

FEMA may compare the Applicant's costs to the Applicant's historical costs for a similar scope of work or items. Where an Applicant procures the same or similar supplies or services over a period of time, an Applicant may be able to provide documentation of historical costs to demonstrate comparable costs, adjusted for inflation or other factors as necessary. Other factors may include, but are not limited to, changes in codes and standards, availability of in-kind construction material, quantity, delivery schedules, and the economy. This may not be a flat inflation rate, because some types of work may have a different inflation rate than others. There are tools available to account for differences in inflation rates. FEMA's Cost Estimating Format (CEF) employs a nationally recognized economic inflation factor. An Applicant may provide previous contracts, invoices, or other documentation to demonstrate that its current costs are comparable to historical costs for similar supplies or services.

FEMA may also use weighted average unit pricing and related specifications from the Applicant or the Applicant's respective State or regional agency, such as the Department of Transportation. Average weighted unit prices are comprised of historical bid tabulation average costs and related specifications from competitive bid pricing solicitations respective to the area. These prices are generally inclusive of all factors required to bid public works projects, such as performance bonds, bid bonds, overhead and profit, and general conditions.

3. Published Unit Costs: Industry Standard Information Resources

There are many circumstances where it is appropriate and necessary to use published unit costs to evaluate the reasonableness of a project's costs. For example, where appropriate local data cannot be developed or obtained, industry standard construction cost estimating resources are the recommended sources of information for preparing an estimate against which to evaluate an Applicant's actual costs. This is due to their wide acceptance in the industry and the availability of data for nationwide use. Examples of such sources are RSMeans, BNi Costbooks, Marshall and Swift, and Sweet's Unit Cost Guide. Depending on the complexity of the project, FEMA will utilize an experienced cost estimator or

other subject matter expert with appropriate technical experience and validate costs using RSMeans (or other cost estimating resources as appropriate) and FEMA's CEF.

A reviewer using this method must ensure that the current cost data publications for the project at issue are used, and if necessary, confirm that the appropriate locality adjustment factor from the cost estimating publication is used.

While industry standard construction cost estimating resources are recommended for use, these publications may not always provide work items that are appropriate or applicable to the construction activities required to complete the project. When industry standard cost data is not appropriate, other sources should be considered, such as local cost data from Other Federal Agencies or other State agencies responsible for construction of similar facilities in or near the locality.

4. Comparable Costs of Other Applicants

FEMA may also compare the Applicant's costs with a different Applicant with a properly procured contract for a project with a similar scope of work in the same geographic area under similar circumstances. Factors to consider here are: events and a scope of work of comparable magnitude; contracts of a similar nature; and any applicable market factors and/or any other unique circumstances that may impact either of the costs respectively.

5. FEMA Cost Codes

FEMA maintains a national unit price listing called cost codes and periodically adjusts this listing to conform with geographical and disaster-specific needs. FEMA cost codes may be used when a cost is not found in other published unit costs or if the cost codes are otherwise more applicable than other published costs. FEMA cost codes may be useful for determining reasonableness of force account costs. If using this methodology, a reviewer must check the date of the cost codes to ensure they are applicable to the project at issue. This needs to be considered for both regional and national cost codes, as appropriate.

6. Use of Least-Cost Alternative, or Low Bid

There may be situations where use of the least-cost alternative, or the low bid, is the appropriate remedy when establishing a reasonable cost for procurements that do not comply with federal grant requirements. However, this determination requires an analysis to understand the context surrounding the project and if there are any extenuating circumstances or mitigating factors demonstrating why the least cost alternative may not be appropriate.

For example, when it is necessary to conduct a reasonable cost analysis for Applicant A's debris removal operation, and Applicant B located in the same or nearby geographic area has a properly procured contract for a similar scope of work, FEMA may compare the projects and associated costs. Applicant B has lower costs for a similar scope of work. Using the least cost alternative option in this situation would be to determine that Applicant B's lower costs are the only reasonable costs and to apply those to Applicant A's project. While this may ultimately be the correct remedy, this determination is premature without evaluating whether Applicant A is able to justify its higher costs. For example, Applicant A may be able to demonstrate mitigating factors affecting costs such as the economy of scale of the project (i.e.,

Applicant B's project was similar but larger and therefore costs were negotiated at a lower rate), or longer haul routes in Applicant A's geographic area due to different damage impacts or landfill locations.

When a necessary reasonable cost analysis has been conducted and costs appear high for a project, there are several possible scenarios to determine reasonableness. For example, if an Applicant is able to provide a justification for the increased costs, FEMA employs experts and/or seeks out expert assistance from professionals familiar with evaluating applicable factors to determine whether the higher costs are reasonable based on the Applicant's justification.

Another example is when an Applicant cannot substantiate why a higher bidder was selected based on its selection criteria set forth in its Request for Proposal. In this circumstance if an Applicant's lowest responsible bidder has an appropriate scope of work, the low bid will establish the reasonable costs. However, the determination to use the low bid should be based on an Applicant's ability to demonstrate the reasonableness of its costs based on the circumstances.

References

FEMA has developed comprehensive instructional aids and guidance in this area. See the following resources for additional information about reasonable costs.

- [CEF for Large Projects Instructional Guide V2.1 \(September 2009\)](#)
- [Pricing Guide for Recipients and Subrecipients Under the Uniform Rules \(2 CFR Pt. 200\), dated May 1, 2016](#)

Appendix A

Validation of Applicant-Provided Cost Estimates

This Appendix provides a checklist that FEMA staff must use to review and validate cost estimates submitted to FEMA for Permanent Work. FEMA staff may also use relevant portions of this checklist for Emergency Work, if necessary. FEMA will include this checklist in the associated subaward file in Grants Manager and EMMIE.

The steps for validating Applicant-provided cost estimates are as follows:

1. Verify that the estimate:

- Is prepared by a licensed Professional Engineer or other estimating professional, such as a licensed architect or certified professional cost estimator⁴ who certifies that the estimate was prepared in accordance with industry standards.
- Includes certification that the estimated cost directly corresponds to the repair of the agreed upon damage.
- Is based on unit costs for each component of the SOW and not a lump sum amount.
- Contains a level of detail sufficient for FEMA to validate that all components correspond with the agreed-upon SOW.

2. Review the scope of work and cost estimate to verify that only eligible items are included.

- The scope of work items in the cost estimate are required based on the agreed-upon damage description and dimensions.
- The scope of work included ineligible items, and FEMA has removed the ineligible components from the estimate (documentation detailing the components removed and reason for removal is attached).
- The scope of work included ineligible items, and FEMA is returning the estimate to the Applicant to revise.

3. Determine whether unit costs are from an approved source of industry standard information and whether current cost data publications were used.

There are numerous sources that may be used in the preparation of cost estimates.

- The Applicant used the following appropriate cost estimating resource(s):
 - Industry standard construction cost estimating resource
 - RSMeans
 - XActimate
 - BNi Costbooks

⁴ In lieu of a license or certification, an individual with professional experience and proficiency in the field of cost estimating may prepare and sign the cost estimate.

- Marshall & Swift
- Sweet's Unit Cost Guide
- Other _____
- Local cost data from _____
- Contract unit costs from recently completed projects
- Other: _____
- FEMA returned the estimate to the Applicant to revise as the Applicant did not use an appropriate cost estimate resource.

4. Determine the components of unit costs.

Ensure that the components that make up the unit costs are fully understood. The purpose of this review is to ensure that components of the unit costs are not duplicated elsewhere in the cost estimate.

- The estimate contained sufficient information related to the components of the unit costs:
 - Each unit cost represented a complete and in-place cost that included all labor, equipment, materials, small tools, incidentals, and hauling costs necessary to complete that element of work.
 - Unit costs were analyzed to determine if general contractor overhead and profit were included in the unit costs:
 - Both general contractor and subcontractor overhead and profit are included in the unit costs and these costs are not duplicated elsewhere in the estimate or in the CEF.
 - Overhead and profit are not included in the unit costs.
 - Overhead and profit are duplicated in the estimate.
 - Costs for surveying, construction inspection, and permit compliance fees are not duplicated (i.e., not included within a unit cost and separately in the estimate).
- The estimate did not contain sufficient information related to the components of the unit costs. FEMA requested additional information from the Applicant.

5. Validate the cost estimate for completeness and reasonableness.

- The cost of work items are reasonable based on a representative sample.
- FEMA has determined costs for items of work in the estimate to be unreasonable (see attached). Therefore, the estimate was returned to Applicant to revise.
- All items of work included in the cost estimate are eligible.
- FEMA has removed ineligible items of work from the cost estimate (see attached).
- All work activities required to complete the work are quantified with unit costs.
- The cost estimate included lump sum amounts for work activities that need to be adjusted to unit prices. FEMA has returned the estimate to the Applicant for revision.
- The appropriate locality adjustment factor from the cost estimating publication is used for each

line item, as applicable. Where historical costs were used, a locality adjustment was not applied, but cost escalation factors were added.

- The appropriate locality adjustment factor from the cost estimating publication was not used (see attached) or, as historical costs were used, a locality adjustment was inappropriately applied.
- Cost items checked are within 10 percent of the local average weighted unit prices or industry standard construction cost data (based on a review of at least six of the ten largest cost items against local average weighted unit prices or industry standard construction cost data (or there were less than ten cost items and all were reviewed) and based on reviewing at least 25 percent of the remaining cost items against local average weighted unit prices or industry standard construction cost data.
- Cost items checked are not within 10 percent of the local average weighted unit prices or industry standard construction cost data; therefore, the estimate was returned to Applicant to revise.

Date Review Completed _____

Date of Information Requests to Applicant _____

Name of Reviewer _____

Reviewer Signature _____

FEMA is making adjustments to simplify the application process but not deviating from the basics that experienced recipients and applicants may be familiar with.

- Since assistance is limited to emergency protective measures, FEMA's complex eligibility criteria are significantly streamlined:
 - Permanent work is not needed nor eligible for reimbursement, so complicating damage eligibility and engineering challenges will not exist.
 - Debris removal is not needed nor eligible for reimbursement, so typical complicated questions about monitoring and disposal will not exist.
- This simplification of the program's eligibility criteria enables FEMA to streamline its application steps.
 - FEMA is eliminating exploratory calls, recovery scoping meetings, and most site inspections (temporary facilities will be inspected on a case-by-case basis).
 - FEMA is reducing documentation requirements to the minimum needed to support Category B reimbursement.
 - Many steps, including most initial steps to begin the reimbursement process, will remain the same: Account creation, SF-424 Grant Application submission, Request for Public Assistance submission, Scope of Work and Cost Estimate development, compliance reviews, and eligibility reviews.
- FEMA will simplify the process for creating a Project Worksheet (PW) by creating a template PW form for Category B assistance for COVID-19:
 - Applicants will complete the form online in the PA Grants Portal at <https://grantee.fema.gov>.
 - The form will collect minimal information about the work activities being performed.
 - The form will include a few basic questions to establish eligibility.
 - The form will ensure the U.S. Department of Health and Human Services and Centers for Disease Control and Prevention are not duplicating the funding.
 - The form will require minimal documentation to support eligibility based on the project's risk of providing ineligible funding and emergency need:
 - Expedited Projects: Limited documentation but funded at 50 percent.
 - Small Projects: Limited documentation and self-certified as to basic eligibility requirements.
 - Large Projects: Limited documentation but full FEMA review based on amount of funding provided.
- Instead of using a project-specific approach to environmental and historic preservation (EHP) compliance, FEMA is developing a program-wide approach for activity types that have little to no potential to affect or impact EHP resources.

FEMA is standing by to immediately provide funding, as requested.

- These changes are coming, but FEMA can process projects now through Grants Manager and Grants Portal.
- Nothing immediately changes from a standard PA declaration: FEMA needs signed FEMA-State/Tribal/Territorial Agreements, signed SF-424 Grant Applications, and the PA Administrative Plan. Recipients can start setting up Grants Portal accounts for themselves and applicants so they can provide information sign-off at appropriate steps.
- Recipients will need to set up [Grants Portal](#) accounts for their staff and send invites to applicants to set up in Grants Portal. These requests can be targeted to those needing immediate funding since applicants, recipients and FEMA are in a response environment.

- **Expedited funding** is available to interested states, tribes and territories:
 - Expedited funding enables FEMA to provide 50 percent of the estimated project cost quickly based on limited information and provide the remainder of funding upon receipt of documentation.
 - Expedited projects can be processed in a timely manner, in most cases less than a week, when the recipient quickly provides information and responds to FEMA requests.

This is a dynamic environment, and we are doing everything we can to communicate and improve our ability to deliver large-scale assistance rapidly.

- FEMA has tutorials for applicants and recipients to [create accounts](#) and [submit Requests for Public Assistance](#) and will be sharing follow-on guidance and training materials for how to navigate the process.
 - Eligibility guidance is available and will be constantly updated on [FEMA's website](#).
 - Guidance on how to apply is available in the Resources tab in Grants Portal.

IF ASKED: Are direct application and the simplified application processes available today?

- No. FEMA is working to implement processes and tools to enable simplified application processes within two to three weeks and expects to have direct application capability available through Grants Portal in six to eight weeks.
- If applicants need immediate funding, FEMA will provide this funding using standard processes – including providing expedited funding for immediate needs. In these scenarios, until direct application is available, FEMA will assign staff to help answer questions.

IF ASKED: But what if an applicant needs a FEMA point of contact and does not want to directly apply?

- If applicants have questions about Grants Portal access they may contact the Grants Portal Hotline at (866) 337-8448 or FEMA-Recovery-PA-Grants@fema.dhs.gov.
- Applicants will also be provided a remote point of contact should FEMA have any questions about their PW.
- Additionally, recipients may choose to provide customer service to applicants requesting PA.
- FEMA may also assign program delivery managers to applicants with (1) high-risk; (2) low-capacity, or (3) an ongoing disaster recovery not related to COVID-19. However, given the national scale of the event, FEMA will not be able to assign program delivery managers to every applicant.

IF ASKED: Why isn't FEMA exploring other opportunities to simplify the application process, such as raising the simplified procedures threshold?

- FEMA is exploring all avenues to simplify the PA application process in the COVID-19 environment. Ideas can be submitted through FEMA's regional offices or the feedback button in the upper right-hand corner of PA Grants Portal.
- FEMA will make continuing adjustments to streamline and provide more timely assistance.
- FEMA is trying to balance the need for changes to scale to the unprecedented nature of COVID-19 with not making too many changes in a complex response environment.
- Raising the simplified procedures threshold (also called the small project maximum or large project threshold) would not simplify the process to *award* assistance because simplified procedures mainly simplify *post-award* processes. FEMA is targeting reducing the documentation burden, as analysis shows this is the driver of pre-award complexity and timeliness.

Public Assistance Applicant Procurement Compliance Checklist



Purpose:

Checklist for Reviewing Procurements under Grants by States, local and tribal governments, Institutions of Higher Education, Hospitals, and private non-profit organizations - 2 C.F.R. pt. 200. Revised on 11/21/18.

Complementary Resources:

- Procurement Rules Online: www.ecfr.gov
2 C.F.R. 200.317-326 can be viewed in its entirety at this website.
Title 2 → Subtitle A → Chapter II → Part 200 → Subpart D → Procurement Standards
- [Field Manual](#) and [Supplement](#) available at www.fema.gov/procurement-disaster-assistance-team

Type of Entity

Applicant Name:	
Reviewer Name:	Date Reviewed:
Type of Entity Conducting the Procurement	
The term “non-Federal entity” (NFE) below refers to the entity that is conducting the procurement action (i.e., the state, local, territorial or tribal government, or private-non-profit entity).	
1	<p>Is the NFE a State as defined by 2 C.F.R. § 200.90?</p> <p>Yes <input type="checkbox"/> → The NFE must comply with 2 C.F.R. 200.317, 200.322, and 200.326</p> <p>No <input type="checkbox"/> → The NFE must comply with 2 C.F.R. 200.318 through 200.326</p>
2	<p>Does the procurement comply with the State’s own procurement laws, rules, and procedures? §200.317</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/> → The procurement does not comply with federal requirements</p>
3	<p>Does the procurement comply with the requirement to make maximum use of recovered/recycled materials? § 200.317, § 200.322</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/> → The procurement does not comply with federal requirements</p> <p>N/A <input type="checkbox"/> → Work does not involve the use of materials (e.g., debris removal or otherservices) or the NFE is not a political subdivision of a State</p>



Required Contract Clauses



Contract Clauses		
4	If the contract amount exceeds \$250,000, does it address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for sanctions and penalties?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
5	If the contract amount exceeds \$10,000, does it address termination for cause and for convenience , including the manner by which it will be effected and the basis for settlement?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
6	If the contract is for construction, does it include the required Equal Employment Opportunity clause?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
7	For construction contracts exceeding \$2,000 awarded under a Federal grant, does the contract include a Davis-Bacon Act clause and Copeland "Anti- Kickback" Act clause addressing prevailing wage rates?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>
8	If the contract amount exceeds \$100,000 and involves the employment of mechanics or laborers , does the contract include the required Contract Work Hours and Safety Standards clause?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
9	Rights to Inventions Made Under a Contract or Agreement	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>
10	If the contract or subrecipient amount exceeds \$150,000, does the contract include clauses addressing the Clean Air Act and the Federal Water Pollution Control Act ?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>



Required Contract Clauses	11	Does the contract include a Suspension and Debarment clause?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not comply with federal requirements
	12	Does the contract include a Byrd Anti-Lobbying clause?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not comply with federal requirements
	13	For contracts exceeding \$100,000, have bidders submitted the required Byrd Anti-Lobbying Certification?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not comply with federal requirements
			N/A <input type="checkbox"/>		
	14	Does the contract include a clause requiring the contractor to maximize use of recovered/recycled materials ?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not comply with federal requirements
		N/A <input checked="" type="checkbox"/>		Work does not involve the use of materials (e.g., debris removal or other services) or NFE is not a political subdivision of a State	
Recommended Contract Clauses	15	Does the contract include a clause allowing for changes or modifications to the contract?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not include provisions recommended by FEMA
			N/A <input type="checkbox"/>		
	16	Does the contract include a clause requiring the contractor and any subcontractors to comply with applicable provisions governing Department and FEMA access to records ?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not include provisions recommended by FEMA
			N/A <input type="checkbox"/>		
	17	Does the contract restrict any contractors and subcontractors from using DHS's seal, logo, or flag without express permission?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not include provisions recommended by FEMA
		N/A <input type="checkbox"/>			
	18	Does the contract contain a clause requiring the contractor to comply with all applicable federal law, regulations, executive orders , and FEMA policies, procedures and directives?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The contract does not include provisions recommended by FEMA
		N/A <input type="checkbox"/>			



Recommended Contract Clauses

19	Does the contract contain a provision stating that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to any party under the contract?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  N/A <input type="checkbox"/>	The contract does not include provisions recommended by FEMA
20	Does the contract include a provision in which the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  N/A <input type="checkbox"/>	The contract does not include provisions recommended by FEMA



If a State agency is awarding the contract, STOP here.

The District of Columbia, USVI, the commonwealth of Puerto Rico, Guam, American Samoa, and the commonwealth of the Northern Mariana Islands are included in the definition of a state.

If the contract is being awarded by a local or tribal government or private nonprofit entity, CONTINUE with the checklist.



General Requirements

Type of Entity












Written Standards of Conduct

21	Does the procurement comply with the NFE’s own procurement laws, rules, and procedures which reflect applicable state, local, and tribal laws and regulations ? §200.318(a)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
	22	Did the NFE maintain contract oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders? §200.318(b)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
23	Does the NFE have written standards of conduct covering - §200.318(c)(1):			
24	Conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The standards do not comply with federal requirements
25	Any employee, officer, or agent participating in the selection, award, or administration of a contract supported by a Federal award that has an actual or apparent conflict of interest ?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The standards do not comply with federal requirements
26	Any employee, officer, or agent that has solicited and/or accepted gratuities, favors, or anything of monetary value from contractors or parties to subcontracts?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The standards do not comply with federal requirements
27	Do standards of conduct provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The standards do not comply with federal requirements
28	If the NFE has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, does the non-Federal entity have written standards of conduct covering organizational conflicts of interest ? §200.318(c)(2)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The standards do not comply with federal requirements
		N/A <input type="checkbox"/>		
29	The NFE must avoid acquisition of unnecessary or duplicative items . Has the NFE considered consolidating or breaking out procurements to obtain a more economical purchase? Where appropriate, has the NFE considered lease versus purchase alternatives? § 200.318(d)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements



T&M Contracts	30	Is the contract being awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of the proposed procurement, giving consideration to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources? § 200.318(h)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> →	The contract does not comply with federal requirements
	31	Is the NFE keeping records sufficient to detail the history of the procurement, including, but not limited to, records documenting the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price? § 200.318(i)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> →	The procurement does not comply with federal requirements
	32	Is the contract a time-and-materials contract ? § 200.318(j)	Yes <input type="checkbox"/> →	No <input checked="" type="checkbox"/> →	Answer questions 33 and 34 Skip to 35
	33	Has the NFE documented why no other contract is suitable?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> →	The contract does not comply with federal requirements
	34	Does the contract include a ceiling price that the contractor exceeds at its own risk?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> →	The contract does not comply with federal requirements
	35	Is the NFE alone responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements? §200.318(k)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> →	The procurement does not comply with federal requirements
Competition					
Full & Open Competition	36	All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. Does the procurement involve any of the following - § 200.319(a):			
	37	Placing unreasonable requirements on firms in order for them to qualify to do business?	Yes <input type="checkbox"/> →	No <input type="checkbox"/>	The procurement does not comply with federal requirements
	38	Requiring unnecessary experience and excessive bonding ?	Yes <input type="checkbox"/> →	No <input type="checkbox"/>	The procurement does not comply with federal requirements








Full & Open Competition	39	Noncompetitive pricing practices between firms or between affiliated companies?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements
	40	Noncompetitive contracts to consultants that are on retainer contracts ?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements
	41	Organizational conflicts of interest ?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements
	42	Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements
	43	Any arbitrary action in the procurement process?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements
	44	Was the contractor that is bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids, or request for proposals? § 200.319(a)	Yes <input type="checkbox"/>  No <input type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements (That contractor must be excluded from competing for such procurement)
Geographic Preference	45	Does the contract include a state or local geographic preference for local contractors? § 200.319(b)	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Answer 46 Skip to 47
	46	Did the NFE document one of the allowed exceptions?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The contract does not comply with federal requirements
Written Procurement Procedures	47	Do the NFE’s written procurement procedures ensure that all solicitations comply with the following - § 200.319(c):		
	48	Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured? § 200.319(c)(1)	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procedures do not comply with federal requirements
	49	Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals ? § 200.319(c)(2)	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procedures do not comply with federal requirements








Pre-Qualified Lists











50	Is the NFE using a prequalified list of persons, firms, or products which are used in acquiring goods and services: § 200.319(d)?	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Answer questions 51-53 Skip to 54
51	Is the list current ?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The prequalified list does not comply with federal requirements
52	Does the list include enough qualified sources to ensure maximum open and free competition ?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The prequalified list does not comply with federal requirements
53	Were any potential bidders precluded from qualifying during the solicitation period?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	The procurement does not comply with federal requirements

Method of Procurement

Micro-Purchase

54	Is the NFE using one of the following acceptable methods of procurement? § 200.320		
55	Micro-purchase (i.e., purchases below \$10,000, see, §200.67 Micro- purchases) § 200.320(a) Note: Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Answer 56 Skip to next method
56	To the extent practicable, is the NFE distributing micro-purchases equitably among qualified suppliers?	Yes <input type="checkbox"/> No <input type="checkbox"/>  N/A <input type="checkbox"/>	The procurement does not comply with federal requirements



Small Purchase	57	<p>Small purchase procedures § 200.320(b)</p> <p>Note: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the lesser of either (1) the federal small purchase threshold (i.e., \$250,000), or (2) whatever amount State or local procurement rules set as the small purchase threshold— if more restrictive than the federal threshold.</p>	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Answer 58 Skip to next method
	58	Did the NFE obtain price or rate quotations from an adequate number of qualified sources (at least 3 or more)?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procurement does not comply with federal requirements
Sealed Bids	59	<p>Sealed bids § 200.320(c)</p> <p>Note: Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.</p>	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Answer 60-71 Skip to next method
	60	Are all of the following conditions to use sealed bidding present? § 200.320(c)(1)	Yes <input type="checkbox"/>  No <input type="checkbox"/> 	Check if all answers between 61 and 63 are “Yes” If you answer “No” to any of the questions between 61 and 63, the procurement does not comply with federal requirements
	61	Is a complete, adequate, and realistic specification or purchase description is available?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procurement does not comply with federal requirements
	62	Are two or more responsible bidders willing and able to compete effectively for the business?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procurement does not comply with federal requirements
	63	Does the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price?	Yes <input type="checkbox"/> No <input type="checkbox"/> 	The procurement does not comply with federal requirements
	64	If sealed bids are used, the following requirements apply: § 200.320(c)(2)		



Sealed Bids

65	Did the NFE solicit bids from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
66	If the NFE is a local or tribal government, was the invitation for bids publicly advertised?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
67	Did the invitation for bids include any specifications and pertinent attachments, and define the items or services in order for the bidder to properly respond?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
68	Did the NFE open all bids at the time and place prescribed in the invitation for bids?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
69	For local and tribal governments , were the bids opened publicly?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
70	Did the NFE award a firm fixed price contract award in writing to the lowest responsive and responsible bidder?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
71	If any bids were rejected, was there a sound documented reason supporting the rejection?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
72	<p>Procurement by competitive proposals § 200.320(d)</p> <p>Note: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.</p>	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>	<p>Answer 73-76</p> <p>Skip to next method</p>

Competitive Proposals



Competitive Proposals	73	Did the NFE publicize the Requests for Proposals (RFPs) and identify all evaluation factors and their relative importance?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
	74	Did the NFE solicit proposals from an adequate number of qualified sources?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
	75	Did the NFE have a written method for conducting technical evaluations of the proposals received and for selecting recipients?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
	76	Did the NFE award the contract to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements
	77	<p>Note regarding architectural/engineering (A/E) professional services: The NFE may use competitive proposal procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.</p>		
Noncompetitive Proposals	78	<p>Noncompetitive proposals § 200.320(f)</p> <p>Note: Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one (or an improperly limited number of) source(s).</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Answer 79-83
	79	If using a noncompetitive proposal method, do one or more of the following circumstances apply?	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>	Check if one or more of answers to 80-83 are "Yes" If you answer "No" or "N/A" to 79-82, the procurement does not comply with federal requirements







Non-Competitive Proposals

80	The item is available only from a single source	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
81	The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
82	The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
83	After solicitation of a number of sources, competition is determined inadequate	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (Not Required for Micro-Purchases)

Affirmative Steps

84	Has the NFE taken the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible? § 200.321	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  N/A <input checked="" type="checkbox"/> 	The procurement does not comply with federal requirements Not required for procurements under \$10,000. (Document)
85	Placing qualified small and minority businesses and women's business enterprises on solicitation lists?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  N/A <input checked="" type="checkbox"/> 	The procurement does not comply with federal requirements (Document)



Affirmative Steps

86	Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements No potential sources (Document)
87	Dividing total requirements, when economically feasible , into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements Not economically feasible (Document)
88	Establishing delivery schedules, where the requirement permits , which encourage participation by small and minority businesses, and women's business enterprises?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements The requirement does not permit (Document)
89	Using the services and assistance, as appropriate , of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements Not appropriate (Document)
90	Requiring the prime contractor, if subcontracts are to be let , to take the affirmative steps listed above?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/>	The procurement does not comply with federal requirements No subcontractors will be let (Document)


Contract Cost and Price

Cost or Price Analysis

91	If the contract amount (including contract modifications) exceeds \$250,000 , did the NFE perform a cost or price analysis? § 200.323(a)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
92	Did the NFE negotiate profit as a separate element of the price for each contract in <i>which there is no price competition and, in all cases, where cost analysis is performed</i> ? § 200.323(b)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The procurement does not comply with federal requirements







CPPC Contract

93	Is the contract a “cost plus a percentage of cost” or “percentage of construction cost” contract?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	This form of contract is prohibited under the Federal procurement standards
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Bonding Requirements for Construction or Facility Improvement Contracts Exceeding \$250,000

Bonding Requirements

94	<p>Note: For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (i.e., \$250,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected.</p>		
95	If such a determination (see above) has not been made, does the procurement include the following?	Yes <input type="checkbox"/> No <input type="checkbox"/>  N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
96	<p>A bid guarantee from each bidder equivalent to five percent of the bid price?</p> <p>The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>  N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
97	<p>A performance bond on the part of the contractor for 100 percent of the contract price?</p> <p>A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>  N/A <input type="checkbox"/>	The procurement does not comply with federal requirements
98-	<p>A payment bond on the part of the contractor for 100 percent of the contract price?</p> <p>A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>  N/A <input type="checkbox"/>	The procurement does not comply with federal requirements

