

Preparing for Disaster

WHAT TO EXPECT FROM FEMA & HOW TO NAVIGATE THE FEMA GRANT PROCESS

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Presenter

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 - Client Project Manager for some of the country's most significant disaster recovery operations including:
 - Hurricanes Harvey, Irma, Sandy and Ike
 - 2008 Midwest Floods
 - Former FEMA official with response to more than 60 disasters
 - Former Incident Operations Manager for USCSB

Overview

- FEMA Public Assistance Program Basics
- Five Helpful Hints for Dealing With FEMA
- FEMA Procurement Guidelines

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Public Assistance Basics

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Public Assistance Basics

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- **Governing Documents**
 - Statute (Law)
 - Regulations
 - Policy

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Public Assistance Basics

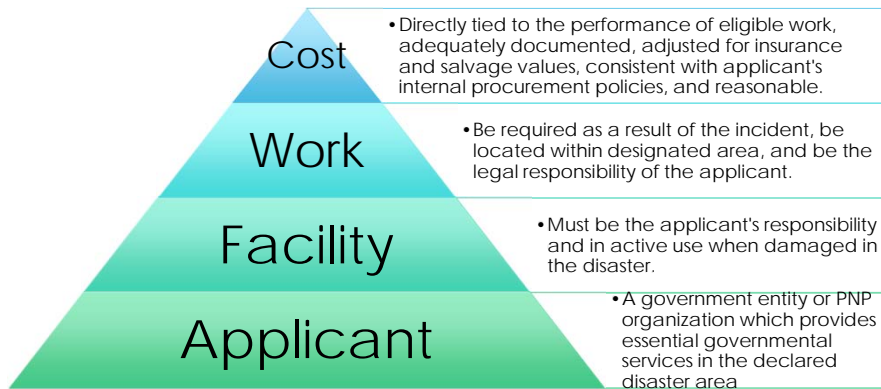
- Statute: The Stafford Act
 - Authorizes the Public Assistance Program
 - Gives FEMA authority to provide assistance
 - Defines basic program criteria and eligibility
 - Authorizes FEMA to publish regulations
 - Provisions cannot be changed by FEMA

Public Assistance Basics

- The Public Assistance Regulations
 - 44 Code of Federal Regulations
 - Part 9 Floodplain Management
 - Part 10 Environmental Compliance
 - Part 13 Grant Administration
 - Part 59 National Flood Insurance Program
 - Part 206 Public Assistance Program

Public Assistance Basics

➤ General Program Eligibility



Public Assistance Basics

➤ Applicant Eligibility

➤ Governmental Entity

- State, County, Local, etc.

➤ Private Non Profit- providing essential governmental service

- Schools, Hospitals, Rural Electric Utility, etc.

Public Assistance Basics

- **Work**
 - Must be a direct result of disaster
 - Located within the disaster area
 - Legal responsibility of applicant

Public Assistance Basics

- **Ineligible Work**
 - Work caused by applicant negligence
 - Deferred maintenance
 - Pre-existing damages

Public Assistance Basics

- **Costs – to be eligible costs must:**
 - Be reasonable and necessary
 - Comply with standards of procurement
 - Exclude credits
 - Insurance
 - Salvage

Documenting Force Account Labor

- **Actual costs incurred by the cooperative in the performance of disaster eligible work includes:**
 - Wages
 - Paid or credited fringe benefits
 - Regular time and overtime
 - Compensatory time
 - Reassigned employees
 - Temporary employees
 - Volunteer Labor
- FEMA funds only unbudgeted employee cost for emergency work (overtime).
- FEMA funds both regular and overtime for permanent work repairs.



Documenting Force Account Equipment

- Owned equipment hourly rate
- Rates include:
 - Cost of operation
 - Insurance and depreciation
 - Maintenance
- Rates do not include operator labor
 - Operator and Equipment hours must agree.
- FEMA equipment rate unless applicant's rate is lower.
- FEMA now reimburses hourly rates for permanently mounted generators.



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Documenting Force Account Materials

- Force Account Materials
 - Must be used for eligible work
 - Reimbursement based on:
 - Purchases
 - Applicant stock or warehouse
 - Donated materials not eligible



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Public Assistance Basics

- Categories of Work
 - Emergency Work
 - Permanent Work

Public Assistance Basics

- Emergency Work
 - Category A - Debris Removal
 - Category B - Emergency Protective Measures

Public Assistance Basics

➤ Debris Removal

- To be eligible
 - Eliminate threat to lives and safety
 - Eliminate threat to improved property
 - Ensure economic recovery

Public Assistance Basics

➤ Emergency Protective Measures

- To be eligible
 - Must eliminate threat to lives, public health and safety
 - Reduce additional damage to improved property

Public Assistance Basics

- **Emergency Protective Measures include:**
 - Police, fire and rescue response
 - Emergency access
 - Emergency communications
 - Snow removal

Public Assistance Basics

- **Emergency Protective Measures include:**
 - Temporary levees, sandbagging, and pumping
 - Health and safety measures
 - Emergency and temporary repairs

Public Assistance Basics

➤ Permanent Work Categories

- C - Roads and Bridges
- D - Water Control Facilities
- E - Buildings and Equipment
- F - Utilities
- G - Parks and others

Project Worksheet Development

The Project Worksheet ...

The Project Worksheet ...

...Tells a story



- What was there before the disaster?**
Basic Project Worksheet Info
- What did the disaster do to the facility?**
Damage Description and Dimensions
- What is necessary to fix the facility?**
Scope of Work
- How will the facility be restored?**
Scope of Work
- Are there any Special Considerations?**
4 Questions
- How much will it cost?**
Cost

Project Description



FEMA Project Worksheet Supporting Documentation

- Photographs of completed work
- Engineering Reports
- Specifications
- Drawings, sketches, calculations
- Code or Standard
- Insurance Policy
- Compliance Documents
- Contracts / bids
- Mutual Aid Agreements
- Rental Agreements
- Receipts
- Time / Equipment Records
- Hazard Mitigation Proposal

If your Smartphone has a camera, USE IT to Document Damages and Repairs.



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Damage Description and Dimensions

- Describe Cause of Damage
- Demonstrate Applicant's Responsibility
- Describe Pre-disaster Condition of the Facility
- Quantify Specific Disaster-Related Damages or Emergency Services Provided

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Scope of Work

- Define scope to restore to pre-disaster condition
- “Work Completed” versus “Work to be Completed”
- Define basis for any changes in pre-disaster condition
- Describe any Special Considerations
- Document ineligible work
- Describe basis for costs

Scope to restore to pre-disaster condition

All project funding relates to the work necessary to restore to pre-disaster condition

- Scope items must relate directly to damaged items
- Describe design assumptions and methods of repair
- Describe work in quantifiable and descriptive terms
- Provide all calculations

Before you sign your PW –
ask yourself

**Will someone reading this in a couple
years understand the project?**

Helpful Hints

➤ **5 Helpful Hints for Dealing with FEMA**

1. Develop positive relationships with FEMA
2. Words matter, choose them carefully
3. Be professional, but tenacious; don't always take no for an answer
4. Follow proper procurement procedures
5. Document, document, document!

5 Helpful Hints for Dealing with FEMA

1. Develop positive relationships with FEMA

- Relationships are particularly important
 - Everything is not always black or white
 - Lots of gray areas in FEMA policy
- You need to help FEMA get it right in the first place
 - They can only evaluate the information they are given
- Be straightforward and forthright in dealings with FEMA officials
- Build trust.

5 Helpful Hints for Dealing with FEMA

2. Words matter, choose them carefully!

- Be honest and accurate in descriptions
- Some words have different meanings in different contexts.
- Avoid the incorrect use of words that may trigger ineligibility such as:
 - Standby time
 - Undamaged
 - Increased costs

5 Helpful Hints for Dealing with FEMA

3. **Be professional, but be tenacious and don't always take no for an answer.**

- FEMA Staff are human and make mistakes
 - New or inexperienced staff may make decisions that need to be escalated to more experienced staff
 - Policy changes don't always get passed along
 - Sometimes policy is incorrectly applied or interpreted
 - Often it is simply lack of clarity or missing information.

5 Helpful Hints for Dealing with FEMA

4. **Always follow proper procurement procedures.**

- Use competitive procurement processes
- Have written procurement policies
- Carefully document your procurement process
- Publically advertise for goods or services
- Use local cooperative buying agreements if they have been properly procured.

5 Helpful Hints for Dealing with FEMA

5. Document, document, document!

- All FEMA disaster assistance grants are subject to FEMA grant regulations and will be audited by people who were not there when the disaster response and recovery work was performed.
- When preparing you PW packages provide FEMA with:
 - Copies of invoices and receipts
 - Accurate payroll records - straight time and overtime
 - Equipment operator and equipment use records
 - Copies of policies and procedures
 - Copies of all applicable contracts along with procurement records

5 Helpful Hints for Dealing with FEMA

➤ Document, document, document!

- Do NOT provide FEMA with original documents
- Keep copies of all documents given to FEMA along with a transmittal log
- Retain all records for three years after the work is completed and the project has been closed out.

Procurement

FEMA PROCUREMENT GUIDELINES

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FEMA Procurement Guidelines

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- Methods of Procurement
- Contract Types
- Required Provisions
- Procurement Files and Documentation

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Procurement Methods

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MICRO-PURCHASES 2CFR 200.67	<p>Does not apply to Presidential Declarations (PDs) prior to 12/26/2014</p> Applies to purchases less than OR equal to \$3,000 No solicitation required Sub-recipient (Applicant) determines reasonableness To extent practical, must be distributed equitably among qualified suppliers
SMALL PURCHASES 2CFR 200.320B	<p>Applies to purchases less than or equal to \$100,000/\$150,000.</p> State Law if more restrictive than the Simplified Acquisition Threshold (SAT) Quotes required - minimum 3 written/telephone/fax from qualified sources Purchases of commercial products sold in substantial quantities to the general public <ul style="list-style-type: none"> • Limited by State law to contracts for supplies & materials less than \$100,000 • Item must meet the definition of commercial product
SEALED BIDS 2CFR 200.320C	Preferred for construction Fixed price Publicly advertised and publicly opened Includes a complete, adequate and realistic specification/purchase description Two or more responsive bidders (Rejected bidders not considered responsive) Awarded to lowest, responsive, responsible bidder Any OR all bids may be rejected for a sound, documented reason

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Procurement Methods

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COMPETITIVE PROPOSALS 2CFR 200.320D	Solicit proposals from an adequate number of qualified sources Must be publicized to maximum extent practical Must have written procedure for conducting evaluations and award
REQUEST FOR PROPOSAL (RFP)	<p>Price a criteria for selection</p> Contract awarded to firm offering best value
REQUEST FOR QUALIFICATION (RFQ)	Limited to Architectural and Engineering (A/E) services Qualifications only criteria selection <p>Price negotiated after selection based on cost analysis.</p>
NON-COMPETITIVE PROPOSALS 2CFR 200.320F	Available only from a single source Used when, after a solicitation of a number of sources, competition is determined inadequate Used only for emergency or exigent circumstances Always requires a cost analysis

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Acceptable Contracts

LUMP SUM	Contract for work within a prescribed boundary with a clearly defined scope plus a total price
UNIT PRICE	Work done on an item-by-item basis, with cost determined per unit (e.g., box, cubic yard, etc.)
COST + FIXED FEE	Total cost with a defined fixed fee added to the price
TIME & MATERIALS	Must make determination that no other type of contract is suitable Must be for a reasonable period of time based on the circumstances Must contain a not-to-exceed (ceiling) clause Payments based on hourly rate schedule and cost of materials Must maintain a high degree of oversight
INTER-GOVERNMENTAL AGREEMENTS	Sub-recipients (Applicants) are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services

Contracts to Avoid

PIGGY BACK CONTRACTS	Piggyback contracts are generally ineligible. To be eligible, strict criteria must be met. The existing properly procured contract must: <ul style="list-style-type: none"> • Be viable • Purchase the same item on original contract • Ensure price and vendor are the same • Include written mutual consent of the original contracting parties
COST PLUS PERCENTAGE OF COSTS	Strictly prohibited.
PERCENTAGE OF CONSTRUCTION COST	Strictly prohibited.
COST PLUS CONTRACT	Not allowed under some State bid law

Required Contract Provisions

- Do not overlook elements of procurement and contracting required for contracts funded with federal grants
 - Section 306 of the Clean Air Act, Section 508 of the Clean Water Act
 - Executive Order 11738, Environmental Protection Agency regulations
 - Contract (greater than small purchase threshold) contains a provision for administrative and legal remedies for violation or breach of contract.
 - Contract (greater than \$10,000) contains a provision for termination of contract for cause and for convenience.

Required Contract Provisions

- A provision to comply with Executive Order (EO) 11246, Equal Employment Opportunity (EEO).
- Contract (for all construction/repair contracts greater than \$10,000) contains a provision to comply with the Copeland Anti-Kickback Act.
- Contract complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.
- Contract contains a provision stating record retention and access requirements to all records.
- Any applicable state laws, ordinances, regulations.

Contracts

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GENERAL REQUIREMENTS	REGULATION/ COST PRINCIPLE
Procurement complies with the Sub-recipients own procurement laws, rules, and procedures.	2CFR 200.318 (a)
Contract oversight ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.	2CFR 200.318 (b)
Written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.	2CFR 200.318 (c)
Assurance that any actual or apparent conflict of interest does not exist with an employee, officer, or agent participating in the selection, award, or administration of a contract supported by a Federal award.	2CFR 200.318 II
Assurance that any employee, officer, or agent has not solicited and/or accepted gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.	2CFR 200.318
Written standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.	2CFR 200.318

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Procurement Don'ts

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DO NOT:	REGULATION/ COST PRINCIPLE
Place unreasonable requirements on firms in order for them to qualify to do business	2 CFR 200.319(c)(1)
Require unnecessary experience and excessive bonding	2 CFR 200.319(a)
Encourage noncompetitive pricing practices between firms or between affiliated companies	2 CFR 200.319(a)
Give noncompetitive contracts to consultants that are on retainer contracts	2 CFR 200.319(a)
Specify 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	2 CFR 200.319(c)(1)

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Procurement Documentation to Include for the Files

- Advertisement
- Solicitation (RFP, RFQ, ITB, or other)
- Proposals received
- Evaluation and selection process
 - Score sheet, Tabulation, Recommendation, MWBE Efforts
- Contract and amendments
- Cost analysis, if required

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Key Takeaways

Documenting Your Procurement Files



- ✓ Save and organize emails.
- ✓ Organize by PW Number.
- ✓ Respond timely to audit request.
- ✓ Get ALL correspondence on PWs in writing.
- ✓ Keep scanned copies.
- ✓ Provide summary schedules.



- ✗ Don't ignore auditors.
- ✗ Don't fail to maintain emails and documentation.
- ✗ Don't provide ineligible documentation.
- ✗ Don't expect full reimbursement of costs.
- ✗ Don't maintain incomplete PW files.

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Key Takeaways

- Review your procurement policies and processes now
- Review all disaster related contracts now
- Apply proper procurement methods per 2 CFR
- Utilize pre-event contracts when possible

Key Takeaways

- Utilize allowable contracts
Lump Sum, Unit Price, Cost plus Fixed Fee, Time and Materials, Intergovernmental Agreements
- Avoid prohibited contracts
Piggyback, Cost plus Percentage, Percentage of Construction Cost
- **Document, Document, Document!**

QUESTIONS?

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