



FEDERAL DISASTER RECOVERY GUIDANCE RECENT CHANGES

In 2012, the Federal Emergency Management Agency (FEMA) issued updated guidance to assist jurisdictions recover from disasters. In particular, reimbursement of mutual aid assistance was addressed in a new policy; new guidance was issued regarding the use of contractors; and changes in the way disaster debris management costs would be reimbursed was addressed in a newly issued fact sheet. A brief summary regarding each of these FEMA documents is provided below along with links to the source documents.

Mutual Aid Assistance

On November 10, 2012, FEMA released recovery policy RP9523.6 titled, Mutual Aid Agreements for Public Assistance and Fire Management Assistance. The policy outlines what mutual aid expenses are eligible for reimbursement by FEMA under the Public Assistance Program and the Fire Management Assistance Grant.

According to the policy, there are three types of mutual aid work eligible for FEMA assistance includes. They include:

1. Emergency work – Work performed to meet immediate threats to life, public safety and improved property.
2. Permanent work – Work of a permanent nature that is necessary for the restoration of utilities
3. Grant management work – Work associated with the performance of the Grantee’s responsibilities as the grant administrator as outlined in 44 CFR §206.202(b).

Key provisions of the policy include the following:

1. To be eligible for reimbursement by FEMA, the mutual aid should be requested by a requesting entity or incident commander, be directly related to a Presidential declared emergency or major disaster or a declared fire, used in the performance of eligible work, and the costs must be reasonable.
2. FEMA will not reimburse costs from entities that “self deploy” without a request for mutual aid assistance except to the extent that such resources are used at the request of the requesting entity or incident commander to perform eligible work.
3. The reimbursement provisions of a mutual aid agreement must not be contingent upon a declaration of an emergency, major disaster, or fire by the Federal government.
4. Reimbursement will be at the Federal cost share rate established in the Presidential declaration, typically 75 percent.

FEMA encourages entities to seek mutual aid agreements prior to a declared fire, emergency, or major disaster. When mutual aid agreements are in place, the providing entity may be reimbursed through the requesting entity. The requesting entity should claim the eligible costs of the providing entity and agree to disburse the Federal share of funds to the providing entity.

FEMA also encourages entities to address the subject of reimbursement in their mutual aid agreements. FEMA will honor the reimbursement provisions of the mutual aid agreement to the extent they meet the requirements of the Mutual Aid Agreements for Public Assistance and Fire Management Assistance policy.

If a requesting entity and a providing entity do not have a mutual aid policy in place at the time resources are requested and supplied, both entities can agree verbally on the type and extent of the mutual aid to be provided, as well as the cost and other conditions of providing the resources. The agreement must be subsequently documented in writing, executed by officials with each entity, and provided to FEMA.

Additional information regarding the reimbursement of mutual aid costs can be found in the Mutual Aid Agreements for Public Assistance and Fire Management Assistance policy. To access the policy in its entirety, please click on the following link:

<http://www.fema.gov/library/viewRecord.do?id=6688>

Public Assistance Grant Contracting

On October 28, 2012, FEMA released Recovery Fact Sheet #9580.212 titled, Public Assistance Grant Contracting Frequently Asked Questions (FAQ). The purpose of the fact sheet is to clarify the procurement rules, alert applicants to pitfalls, and highlight best practices to assist grant applicants in getting reimbursed for eligible work completed under contracts procured by the grant applicants.

Key provisions in the fact sheet include the following:

- To be eligible for reimbursement, contracts must be in compliance with the procurement requirements in 44 Code of Federal Regulations (CFR) part 13, 2 CFR parts 215, 220, 225, and 230. Contracts must also be in compliance with applicable state and local procurement laws. Non-compliance with Federal contracting requirements can put an applicant's grant funding at risk.
- Applicants must always make an estimate before receiving bids and proposals. A cost or price analysis should be completed to evaluate the bids and proposals.
- The applicant must take positive actions to include small and minority firms, women's business enterprise and labor surplus area firms. The applicant's evaluation process should provide potential contractors in these categories a full and open opportunity to compete.

- Applicants must utilize a system that governs contracts and purchase orders. The system must include a process for enforcing agreements, provide written procedures for governing procurement actions, and must include a written code of standards for contract and purchase order administration.
- FEMA prefers sealed bids for construction contracts. After a public invitation and solicitation to bid, the applicant should award a firm-fixed price contract in writing to the lowest bidder. Sealed bids may be used for non-construction contracts as well.
- Keep detailed records of any decision points in the procurement process and document the rationale for the decision.

Additional guidance in the selection of contractors, procurement actions to avoid and other contracting guidance can be found on the Recovery Fact Sheet RP9580.212 at the following link: <http://www.fema.gov/library/viewRecord.do?id=6654>

Disaster Debris Removal

On October 28, 2013, FEMA also released Recovery Fact Sheet 9580.214, titled, Debris Removal on Federal-Aid Highways. The fact sheet explains that the Federal Highway Administration will no longer provide assistance for debris removal on Federal-aid highways in jurisdictions that are to receive public assistance from FEMA. Instead, debris removal from Federal-aid highways will be eligible for FEMA public assistance funding assuming the debris removal operations meet the eligibility and documentation requirements in the Stafford Act, regulations for the FEMA public assistance program found in 44 CRR Parts 206 and 13, as well as FEMA guidance pertaining to disaster debris management operations.

Key provisions of the fact sheet include:

- Debris removal from Federal-aid highways in areas designated by a Presidential declaration may be eligible for public assistance funding, subject to FEMA applicant and work eligibility requirements as well as specific criteria under 44 CFR §206.222, §206.223(a) and (c) and §206.224.
- Emergency Relief funds may be available for debris removal operations on Federal-aid highways through the Federal Highway Administration Emergency Relief Program if the President has declared a major disaster or emergency, but debris removal has not be authorized or FEMA has determined that debris removal costs submitted by the applicant are ineligible.

Additional information regarding debris removal on Federal-aid highways can be found on the Recovery Fact Sheet RP9580.214 at the following link:

<http://www.fema.gov/library/viewRecord.do?id=6640>