

*\*Changes to the previous FAQ will be marked in blue until the next FAQ is published.*

## Overview

On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”). State, territorial, tribal, and local government entities and certain private nonprofits are eligible to apply for Public Assistance (PA).

In accordance with section 502 of the Stafford Act, 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 the agency’s PA program. FEMA will not duplicate assistance provided by the Department of Health and Human Services (HHS), including the Centers for Disease Control and Prevention (CDC), or other federal agencies.

Reimbursable activities 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.

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Please continue to submit any questions not addressed in this document with the subject line of “COVID-19 FAQ” to [fema-r8-policy@fema.dhs.gov](mailto:fema-r8-policy@fema.dhs.gov). Updated FAQs will be distributed on Wednesdays or more frequently if needed.

## Frequently Asked Questions

### General Public Assistance

**Q: Do the States, tribal and territorial governments need to request separate declarations to receive FEMA assistance under this nationwide declaration?**

**A:** No, States, tribal and territorial governments do not need to request separate declarations to receive FEMA Public Assistance. FEMA has issued emergency declaration for each of the six states within Region VIII:

- Colorado COVID-19 (EM-3436 / [DR-4498](#))
- Montana COVID-19 (EM-3476 / [DR-4508](#))
- North Dakota COVID-19 (EM-3477 / [DR-4509](#))
- South Dakota COVID-19 (EM-3475)
- Utah COVID-19 (EM-3478 / [DR-4525](#))
- Wyoming COVID-19 (EM-3479)

Tribes will elect to be either a direct recipient, “opt-in”, or be a subrecipient through the State. If a Tribe elects to opt-in as a direct recipient, the Tribe must notify Regional Administrator Lee dePalo. FEMA assistance will require execution of a FEMA-State/Tribal Agreement along with the Application for Federal Assistance (SF-424).

**Q: What is the cost share for the Public Assistance grant program?**

**A:** FEMA Public Assistance will be provided at a 75 percent Federal cost share.

**Q: Has there been any discussions concerning this \$5 million cap for Emergency Declarations?**

**A:** Yes, the \$5 million cap for emergency declarations can be exceeded. It requires congressional notification, which is being handled at FEMA Headquarters. This action will not impact State or local ability to respond.

**Q: If a State requests a Major Disaster Declaration to open IA programs, is there any option to subsequently include Category B Emergency Protective Measures within that declaration without completing PDAs?**

**A:** Yes, if a State is issued a Major Disaster Declaration to open IA programs, Category B can be included in the declaration as well. For instance, FEMA recently issued Major Disaster Declarations for New York, Washington and California, activating both IA and PA programs.

In the [California declaration request](#), the Governor’s letter states that “Preliminary damage assessments are impossible to perform at this time due to the dynamic nature

of this pandemic, but cases continue to increase each day, and ongoing life-saving response activities are overwhelming both State and local resources”. Additional information can be found in the Governor’s letter link above.

**Q: What is the incident period for the Emergency Declarations?**

**A:** The incident period start date is January 20, 2020 and the end date is continuing.

**Q: Who is the FEMA Point of Contact for PA operations?**

**A:** Please continue to use the [fema-r8-policy@fema.dhs.gov](mailto:fema-r8-policy@fema.dhs.gov) email address to submit questions related to COVID-19 PA operations. You may also contact Zack Lamb, PA Operations Section Chief and/or Leigh Phillips, Infrastructure Branch Director at (303) 887-4265 and (720) 398-7531. For questions regarding Non-Congregate Sheltering, please contact Kevin Helland at (720) 626-3260.

**[Grant Management and Administration](#)**

**Q: Can the Request for Public Assistance (RPA) timeline be extended?**

**A:** Yes, the deadline to submit the Request for Public Assistance (RPA) for the COVID-19 the RPA deadline is nationally extended and will remain open for the duration of the Public Health Emergency, as declared by the Secretary of Health and Human Services, unless an earlier deadline is deemed appropriate by the FEMA Assistant Administrator, Recovery Directorate.

**Q: Will a user guide or reference guides on the new simplified application processes be made available to Applicants?**

**A:** Yes, guides on the new simplified application processes will be made available to Applicants. It is projected that by the end of next week, the following will be issued:

- COVID-19-specific templated Project Worksheet (PW) and account set up, Request for Public Assistance, and expedited funding guidance to streamline up-front PW development steps.
- Updated COVID-19 specific FEMA Job Aids on expedited project funding and PDMG Assignments
- Updates on Large Project Notifications (OLA) – currently waived
- Grants Manager & Grants Portal release with functionality for direct applicant account set up and RPA submission, Cat B-only events

RPA’s will continue to be processed as normal until Grants Portal has the simplified application process functionality.

**Note:** If immediate funding is required, it is not necessary to wait on the new forms and/or reference guides. Processes are in place for immediate obligations, if required.

**Q: What is the documentation required for the new simplified application procedures? What documentation is Region VIII requiring?**

**A:** Preliminary discussions indicate that document requirements will be limited to support eligibility based on project's risk of providing ineligible funding and emergency need. However, until the simplified application process guidance is released, FEMA Region VIII will be requesting documentation required of a typical disaster declaration. Additionally, in order to prevent duplication of benefits, FEMA is requiring a written statement from the Applicant for each project funded by FEMA stating that other Federal funds will not be accepted for that particular project.

**Q: HHS recently announced CDC would be awarding almost \$35M in grants to Region VIII States (\$605M nationwide). How will overlapping costs be deconflicted? And, how will duplication of benefits (DOB) be identified?**

**A:** This question was submitted to HQ on March 16, 2020. At this time, the [CDC COVID-19 Crisis Response Cooperative Agreement – Components A and B Supplemental Funding Interim Guidance \(March 15, 2020\)](#) states that this funding is intended for state, local, territorial, and tribal health departments to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities (Reference: Section I. Summary). The \$35M for Region VIII is allocated as follows:

[CDC Funding Information \(March 11, 2020\):](#)

- Colorado – \$9,831,323.30
- Montana – \$4,567,500.00
- North Dakota – \$4,567,500.00
- South Dakota – \$4,567,500.00
- Utah – \$6,441,412.50
- Wyoming – \$4,567,500.00

**Note:** FEMA is requiring a written statement from the Applicant for each project funded by FEMA stating that other Federal funds will not be accepted for that particular project. FEMA Region VIII recommends Recipients flag health departments applying for PA funding and work with State Health Departments to ensure the health department has exhausted the CDC funding and there is no duplication of benefits.

**Q: Would the State and Local Edward Byrne Memorial Justice Assistance Grant (JAG) Program – Coronavirus Emergency Supplemental Funding (CESF) Program solicitation take priority over PA dollars for law enforcement?**

**A:** Since FEMA will not duplicate assistance provided by other federal agencies, the CESF program would take priority over PA dollars. It would also be more beneficial to your criminal justice agencies since there is no match requirement. Please refer to the [BJA CESF Solicitation](#) or Annex B of this document for a copy of the grant solicitation. Applications are due by [11:59 p.m. eastern time on May 29, 2020](#).

**CESF State Allocations (March 30, 2020):**

- Colorado – \$5,023,213.00
- Montana – \$1,302,796.00
- North Dakota – \$831,523.00
- South Dakota – \$1,505,618.00
- Utah – \$2,649,050.00
- Wyoming – \$493,446.00

**Q: The PAPPG states that the Community Development Block Grant (CDBG) program administered by HUD may be used for the non-Federal share on PA projects if certain requirements are met. What are the certain requirements?**

**A:** Per 24 CFR § 570.201(g), CDBG funds may be used to pay for the non-Federal matching requirement for other Federal programs provided the activity is carried out in accordance with all CDBG program requirements, and provided that the other Federal program recognizes CDBG as non-Federal funds. However, Applicants receiving CDBG funds need approval from the agency administering the CDBG program to use these funds for the PA non-Federal cost share. Additionally, CDBG funding must meet a national objective: Benefit to LMI persons; Elimination of Slums and Blight; or, Urgent Need. As stated in [HUD CDBG Guidance for States](#), most CDBG funds come with a requirement that 70% of the funding meet the “Benefit to LMI” national objective. Please refer to CDBG COVID-19 Quick Guide located in Annex B of this document for information on potential eligible CDBG activities related to the COVID-19 response and [HUD’s CPD Allocations website](#) for an overview of HUD’s CARES Act allocations.

**Q: Will there be Category Z Project Worksheets (PWs)?**

**A:** Yes, FEMA will obligate Category Z PWs in line with the [Public Assistance Management Costs \(Interim\) FEMA Recovery Policy FP 104-11-2](#) applicable to Emergency Declarations under Stafford Act's Section 502.

**Q: How will FEMA reimburse on this grant?**

**A:** FEMA will reimburse Applicants through project versions via normal reimbursement procedures (FEMA > Recipient > Subrecipient).

**Q: Is there a way to proactively address small project overruns, knowing that some of these “small projects” being submitted and versioned will turn into large projects over time?**

**A:** Project obligations will be phased to avoid potential small project overruns. Initially, projects can be obligated based on projections up to 90-days. Once the 90-day initial projection expires, the project will be versioned to capture actual costs to-date and continuing costs for an addition 90-day increment. Versions will continue as such for the duration of the Public Health Emergency. Small projects that are versioned to a large project will not be subject to small project netting.

**[Applicant Eligibility](#)**

**Q: Who are eligible HHS applicants?**

**A:** This question was submitted to HQ on March 16, 2020. The FAQ will be updated once a response is received. According to the [CDC COVID-19 Funding website](#), CDC funding is intended for state, local, territorial, and tribal health departments. Health departments may then disburse funding to other local jurisdictions.

**Q: Who are eligible FEMA applicants?**

**A:** Eligible FEMA applicants are as follows:

- State and Territorial Governments
- Indian Tribal Governments
- Local Governments
- Certain Private Nonprofits (PNPs) *\*Subject to PNP eligibility requirements*

There is no indication at this time that FEMA HQ plans to change the applicant eligibility requirements listed in the PAPPG on Pages 9-14 (PDF Pages 20-25).

**Q: Based on the eligibility pyramid, could counties act as the Applicant on behalf of municipalities, special districts and private non-profits?**

**A:** Typically, State statute does not allow for counties to be legally responsible for other entities such as schools, medical facilities, etc. However, there are instances where counties have been granted legal responsibility over townships. If the State believes statute currently exists to grant legal authority to the counties, the State should submit the applicable statute for FEMA legal review.

**Q: Are hospitals considered eligible applicants?**

**A:** Certain private nonprofit (PNP) hospitals are eligible to apply for PA, including those that own and/or operate medical care facilities. Private for profit entities, including for profit hospitals, are not eligible for assistance from FEMA under PA. SLTT government entities may contract with for profit hospitals to carry out eligible emergency protective measures. FEMA will reimburse the eligible Applicant for the cost of eligible work, and the Applicant will then pay the private entity for the provision of services. For additional information, please refer to the [COVID-19 PA Fact Sheet: Emergency Medical Care](#).

**Q: Are fire districts eligible applicants?**

**A:** Special districts established under State law, such as fire districts, are eligible applicants. Generally, when special districts are established under State law, the districts are considered governmental agencies under the State with legal authorities defined by statute. Special districts have the corporate power and tax power but rarely the police power. Since special districts have the statutory authority to deliver certain public services within its jurisdiction, the District would need to submit its own RPA. The County could submit costs on behalf of the District if the County has been granted legal responsibility over districts, or when the District is doing work outside of their jurisdiction on behalf of the County. If the latter is true, the County and the District would need to enter into some sort of cooperative agreement.

**Q: Is FEMA planning to modify the eligibility requirements for private nonprofits (PNPs)?**

**A:** There is no indication at this time that FEMA HQ plans to change the PNP policy or eligible PNPs listed in the PAPPG. ~~A PNP Fact Sheet is in development and will be distributed in the upcoming weeks.~~ Please see the PNP Fact Sheet in Annex A of this document for more information on PNP eligibility.

**Emergency Procurement**

**Q: What are the criteria and timeline for exigent procurement?**

**A:** The Nationwide Emergency Declaration and declaration of a Public Emergency for COVID-19 establish that exigent and emergency circumstances currently exist. For the duration of the Public Health Emergency, local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing noncompetitively procured contracts to respond to or address COVID-19. More information can be found at:

- [Procurement Under EE Circumstances Memo signed](#)
- [Procurement During EE Circumstances fact sheet 3 18 20](#)



**Q: The current Simplified Acquisition Threshold (SAT) is \$250,000. Is there a way for 2 CFR §300 procurement regulations to be waived or suspended for any purchase or acquisition that falls under the SAT during this event?**

**A:** It has been determined that emergency and exigent circumstances exist based on the President's Nationwide Emergency Declaration and the Secretary of the Health and Human Services' (HHS) declaration of a Public Health Emergency for COVID-19. Therefore, non-state entities are permitted to non-competitively procure contracts pursuant to 2 CFR § 200.320(f)(2) for the duration of the COVID-19 Public Health Emergency as determined by HHS.

### **Mutual Aid**

**Q: If there are different counties and tribes are trying to form an EOC together, how would the Applicants track their costs under the legal responsibility requirement? Can the costs be split as a percentage to each Applicant?**

**A:** If several entities are pooling resources to form one EOC, the entities should enter into a cooperative agreement (or MOU) designating one "Lead Entity" (County) and outlining how funding will be disbursed to include cost-share considerations. FEMA will reimburse the Lead Entity for the total eligible EOC costs and the Lead Entity will subsequently reimburse the other cooperating entities according to the written agreement. The cooperating entities and associated cost must meet the normal applicant and cost eligibility requirements outlined in the PAPPG.

Per the PAPPG, Page 33 (PDF Page 44), Post-Incident Agreements:

"When the Requesting and Providing Entities do not have a written agreement, OR where such an agreement exists but is silent on reimbursement, the entities may verbally agree on the resources to be provided and on the terms, conditions, and costs of such assistance.

The agreement should be consistent with past practices for mutual aid between the entities. For example, if the Requesting Entity does not normally reimburse a Providing Entity for its costs, it should not agree to do so specifically for the declared incident.

Prior to funding, the Requesting Entity must document the verbal agreement in writing, have it executed by an official of each entity with the authority to request and provide assistance, and submit it to FEMA (preferably within 30 days of the Applicant's Briefing)."



**Q: If an eligible applicant operates a critical facility, such as a water treatment plant, providing essential community services and that applicant must bring in additional operators through mutual agreements when the applicant's operators test positive for COVID-19, is the mutual aid eligible for reimbursement even though the services are not directly related to the COVID-19 medical response?**

**A:** This question was submitted to HQ on April 6, 2020. The FAQ will be updated once a response is received. However, based HQ's response to a similar question submitted by another region, HQ may consider these costs ineligible as an increased operating cost that is not directly required to save lives or protect public health and property.

### **Mission Assignments**

**Q: Is there a cost share related to Direct Federal Assistance (DFA) Mission Assignments? If so, is the cost share eligible under PA?**

**A:** Mission Assignments have the same cost-share provisions applicable to the declaration (25% non-Federal share). The recipient of DFA will "provide reimbursement to FEMA for the nonFederal share of the cost of such work in accordance with the provisions of the FEMA-State Agreement."

### **Force Account Labor**

**Q: Is straight-time eligible for the COVID-19 response operations?**

**A:** Only overtime labor is eligible for budgeted employees under Category B. For unbudgeted employees performing activities under Cat B, both straight-time and overtime labor are eligible. For additional information on the differences between a budgeted and unbudgeted employee and other eligible labor costs, please refer to Figure 11 in the PAPPG on Page 24 (PDF Page 35).

**Q: Is straight-time eligible for staff who are reassigned to provide health and safety support to alleviate shortages due to susceptible and sick workers.**

**A:** According to the PAPPG on Page 24 (PDF Page 35), straight-time for a reassigned employee performing emergency work is generally not eligible. It may be eligible if the employee is funded from an external source. A reassigned employee implies a budgeted employee (as opposed to temporary or contract labor). A budgeted employee is employed by the Applicant and his/her salary is paid out of the Applicant's normal operating budget. Straight time is not eligible for emergency work for budgeted employees even if they are performing work outside of their normal duties. Straight-time may be eligible if the reassigned employee is funded by an external source and the eligible emergency work is not covered by the same or another external source (FEMA cannot duplicate funding).

**Q: Are the costs associated with a County hiring temporary staff to screen individuals coming into the courthouse to ensure those individuals are not showing signs of COVID-19 eligible Category B expenses?**

**A:** Yes, the costs associated with hiring temporary employees to screen entry into government buildings are eligible Category B expenses. Temporary employees hired as a result of the event would be considered “unbudgeted employees” meaning that both straight-time and overtime would be eligible for reimbursement.

**Q: If a community is using Volunteer Fire Department personnel to backfill a person(s) out from COVID-19, and they are paying the VFD person, are the VFD salary and benefits eligible while backfilling?**

**A:** Overtime for the backfill employee is eligible if the employee the backfill employee is replacing is performing eligible emergency work. Straight time would also be eligible if the backfill employee is a contracted or temporary employee. In this case, it hinges on whether the VFD person functioning as the backfill employee is otherwise employed by the Applicant or is only employed while the employee he/she is replacing is unavailable due to the performance of eligible disaster-related emergency work. For additional information, please refer to the PAPPG Pages 24-25 (PDF. Pages 35-36).

**Q: Are the costs associated with placing employees on administrative leave considered to be eligible costs?**

**A:** No, administrative leave is not eligible under the PA program. PAPPG Page 25 (PDF Page 36) states “Administrative leave or similar labor costs incurred for employees sent home or told not to report due to emergency conditions are not eligible.” However, the Coronavirus Aid, Relief, and Economic Security (CARES) Act may provide funding under the “Coronavirus Relief Fund” for those type of costs.

### **Emergency Services**

**Q: Could a jurisdiction pay/waive the utility bills for residents directly and indirectly affected by COVID-19 under Category B?**

**A:** Payment of residents’ utility bills is not the legal responsibility of the SLTT and therefore would not be eligible for reimbursement under Public Assistance, Category B Emergency Protective Measures. Additionally, it is not an emergency protective measure that is required as a direct result of a Public Health Emergency in communities.

**Q: Are the costs associated with staffing screening checkpoints for the occupants of vehicles entering a defined area considered to be eligible emergency protective measures?**

A: Yes, the costs associated with staffing checkpoints for screening occupants of vehicles entering a defined area, such as barricades, fencing, law enforcement overtime and equipment rates, are considered eligible Category B expenses if those activities are conducted at the direction of public health officials and the costs are reasonable.

### **Food, Water and Supplies Distribution**

**Q: Would the purchase and distribution of food, water, ice, etc. by the local jurisdiction for the community be eligible?**

A: No, as the COVID-19 event did not impact essential services such as grocery stores, restaurant pick-up, delivery services and online markets, the purchase and distribution of food, water, ice, etc. to the whole community are not eligible. However, those same services used at designated shelters may be eligible.

**Q: Public Health can issue a restraining order on individuals not complying with quarantine orders when they have tested positive for COVID-19. However, Public Health is then responsible for getting groceries and other essential supplies for those individuals. Would the time spent by Public Health performing those duties be reimbursable?**

A: Similar to the response above, the costs associated with Public Health staff delivering groceries and other essential supplies are not considered eligible emergency protective measures since the individual is not at a designated quarantine location and the COVID-19 event did not impact delivery services for groceries and other supplies.

**Q: Are purchase and distribution of food, water, ice, medicine, and other consumable supplies, to include personal protective equipment and hazardous material suits eligible for schools, shelters and those areas that have been designated as quarantine locations? Or, does it apply only to PA eligible applicants who distributes food?**

A: Per PAPPG Page 68 (PDF Page 79), the purchase and distribution of food, water, ice, medicine and other consumable supplies for sheltering needs are eligible expenses for State, Territorial, Tribal, and local governments.

However, per PAPPG Page 60 (PDF Page 71), PNPs are generally not legally responsible for emergency services and FEMA does not provide PA funding to PNPs for the costs associated with providing those services. When a PNP provides emergency services at the request of, and certified by, the legally responsible government entity, FEMA provides PA funding through that government entity as the eligible Applicant.

**Q: Are the costs incurred by food banks for buying and distributing food for COVID-19 eligible for reimbursement from FEMA PA?**

**A:** FEMA PA cannot reimburse food banks directly for the costs of buying and distributing food because these activities are not eligible emergency protective measures for PNP food banks. However, SLTT governments may enter into formal agreements or contracts with food banks to provide necessary food commodities. FEMA PA may provide funding to a SLTT government for the cost of providing necessary food commodities through food banks, through a formal agreement or contract, when food security has been impacted and food distribution is necessary to protect public health and safety. Indicators of negative food security impacts include

- documented decreases of in-kind donations to food banks;
- reduced mobility of those in need due to government imposed restrictions; marked increase or atypical demand for feeding resources; or
- disruptions to the typical food supply chain within the relevant jurisdiction.

FEMA may approve funding to the SLTT for an initial 30 days and may grant a 30-day extension as warranted. FEMA cannot duplicate funding provided by another source and will reconcile final funding based on any funding provided by another agency for the same costs. Foodbanks may not seek direct cost reimbursement from the FEMA PA.

**Q: Is the increased cost associated with the delivery of school meals to kids who are now out of school as a part of the COVID-19 response a reimbursable item under Cat B? For instance, expenses associated with increased costs of delivery of the lunches such as trucks, drives, fuel, etc.**

**A:** This question was submitted to HQ on March 16, 2020. The FAQ will be updated once a response is received. To better analyze the eligibility of costs, FEMA would need help understanding the increased operating costs associated with the deliveries.

**Q: Is the purchase and distribution of meals to individuals over 60, individuals with access and functional needs or any others who are considered to be higher risk and ordered by a senior official to stay home eligible for reimbursement?**

**A:** This question was submitted to HQ on March 30, 2020. The FAQ will be updated once a response is received. Until a response is received, Region VIII will review expenses related to the distribution of food as a short-term emergency protective measure on a case-by-case basis when food and commodities are:

1. unavailable to the general public or the food supply chain is disrupted as of the date of the request, **or**
2. forecast to be unavailable or disrupted within the next 7 days, **and**
3. food distribution is necessary to protect public health and safety where
4. a public health order is in effect.

Alternatively, the Coronavirus Aid, Relief, and Economic Security (CARES) Act may provide funding under the “Coronavirus Relief Fund” through USDA for those costs.

### **Equipment, Supplies and Related Services**

#### **Q: What schedule of equipment rates should be used?**

**A:** Please use [FEMA Schedule of Equipment Rates](#) dated August 27, 2019.

#### **Q: Can Applicants purchase their own personal protective equipment (PPE) if the costs are considered reasonable?**

**A:** Yes, the costs to purchase or replace PPE is eligible. Per PAPPG Page 28 (PDF Page 39), the cost of such supplies is eligible if: “purchased and justifiably needed to effectively respond to and/or recover from the incident; or taken from the Applicant’s stock and used for the incident.” FEMA will provide funding for PPE based on either invoices or inventory records. Funding for items used from inventory will be priced according to the Applicant’s established method. If the Applicant does not have an established method, funding will be based on historical data or other prices from comparable vendors.

#### **Q: Would the purchase of materials to make homemade masks for the distribution to the community be an eligible Category B expense? Could the masks be considered a donated resource?**

**A:** The purchase of the homemade masks would not be an eligible Category B expense as the masks are not directly required to save lives or protect public health and safety. Although homemade masks can be an effective complement to good hygiene, social distancing and other mitigation measures, the masks are not considered PPE according to the CDC. Additionally, the masks would not be considered eligible donated resources as the eligible Applicant is the one providing the masks. FEMA’s donated resources policy applies when:

- The donated resource is from a third party (a private entity or individual that is not a paid employee of the Applicant or Federal, State, Territorial, or Tribal government);
- The Applicant uses the resource in the performance of eligible Emergency Work; and
- The Applicant or volunteer organization tracks the resources and work performed, including description, specific locations, and hours.

**Q: Can excess PPE be donated to for-profit medical facilities?**

**A:** This question was submitted to HQ on March 25, 2020. Until a response is received, please refer to 2 CFR § 200.214: “If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment.”

**Q: Is the purchase of additional medical exam tables, equipment, and exam room cabinets to augment current capacities eligible for reimbursement?**

**A:** Yes, the purchase of durable medical equipment and consumable medical supplies necessary to respond to COVID-19 cases is eligible under the PA program. However, according to PAPPG Pages 79-80 (PDF Pages 90-91), disposition requirements may apply. For additional information, please refer to the [COVID-19 PA Fact Sheet: Emergency Medical Care](#).

**Q: If an eligible applicant purchases testing kits from the private sector, would that be an eligible expense under the Emergency Medical Care portion of emergency protective measures?**

**A:** Yes, the purchase of consumable medical supplies, such as testing kits, from the private sector are eligible expenses under Category B if the supplies are necessary to respond to COVID-19 cases.

**Q: Communities have lost staff for essential businesses like grocery stores and gas stations because the staff is afraid to come to work. Would the costs incurred by a City/County to install any type of protective barriers between employees and customers at essential businesses be eligible?**

**A:** No, the installation of protective barriers at essential businesses is the not the legal responsibility of the SLTT; therefore, these types of expenses are not eligible for reimbursement under Category B.

**Q: Are the IT costs associated with essential personnel supporting the EOC and Health Department virtually considered to be eligible expenses?**

**A:** FEMA HQ considers the purchase of computers, laptops, internet service, and other related expenses to be increased operating costs, which is typically considered to be ineligible. However, increased operating costs are eligible when: the services are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property; the costs are for a limited period of time based on the

exigency of the circumstances; and the Applicant tracks and documents the additional costs. The Applicant must support the criteria mentioned above has been met and the costs are reasonable for FEMA to consider funding the increased operating costs.

**Q: As the State focuses more on teleworking and shutting down facilities, would the costs associated with equipment purchases (printers, monitors, laptops, etc.) as well as the costs related to wrap-around services such as VPN services to increase cyber security be eligible under this current EM declaration?**

**A:** According to FEMA HQ, "...the purchase of computers, laptops, internet service, and other related expenses is not eligible as an emergency protective measure. These purchases would be considered increased operating costs which are not eligible for public entities unless the additional cost is specifically related to eligible emergency actions to save lives or protect public health and safety or improved property. For PNP Applicants, increased operating costs are generally ineligible even if the facility is providing an emergency service, unless doing so on behalf of and at the direction of the legally responsible government entity. In such cases, PA funding is provided through that government entity as the eligible Applicant." Region VIII submitted a request for clarification to HQ on March 30, 2020 to understand why the PAPPG "Temporary Relocation of Essential Services" policy would not apply.

**Q: As schools move to online for the considerable future, are the purchase of computers, laptops, internet service and other related expenses associated with online teaching and learning eligible under Category B Public Assistance?**

**A:** According to FEMA HQ, "...the purchase of supplies/equipment (or rent) to permit students to complete remote schooling/education during school closures is not an eligible Cat B expense as it is not directly required to save lives or protect public health and safety." Region VIII submitted a request for clarification to HQ on March 30, 2020 to understand why the PAPPG "Temporary Relocation of Essential Services" policy would not apply.

**Q: Are cleaning supplies (disinfecting agents, sanitizer supplies, PPE) and additional increased costs (staff overtime, contract cleaning, etc.) for schools who have a positive or presumptive positive eligible under CAT B? Are the same above expenses for schools who take precautionary measures, where no positive or presumptive positive COVID-19 has occurred eligible under CAT B?**

**A:** Yes, for eligible public and PNP facilities, costs associated with disinfecting the facility to eliminate or lessen an immediate threat to lives, public health, and safety are eligible regardless of whether there are any positive or presumptive cases. The work should be consistent with current public health guidance as it relates to disinfection recommendations:



- [CDC: Community Facilities Cleaning-Disinfection](#)
- [CDC: Healthcare Facilities Cleaning-Disinfection](#).

In cases where disinfection may appear to be an increased operating cost (e.g., cleaning and disinfection are normal operating costs), funding may be eligible if:

- The facility provides services that are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property;
- The costs are for a limited time based on the exigency of the circumstances; and
- The Applicant tracks and documents the additional costs.

Examples may include increased cleaning and disinfection costs in emergency, medical, and custodial care facilities treating patients infected with COVID-19.

Policies on labor costs, purchase of supplies and equipment, and contracted services apply as with any other incident (e.g., costs must be reasonable and procurement requirements must be followed).

**Q: Would the installation of equipment making it possible for judges to see inmates in the jail via webcam to limit possible exposures be eligible under PA?**

**A:** No, the installation of webcams does not qualify as an eligible emergency protective measure. Unless there is a legal requirement for the inmates to meet with judges in a visual manner, the installation of webcams is not eliminating an immediate threat. And should there be a legal requirement, the first reimbursement funding request should be submitted to the Department of Justice.—~~Consider other available social distancing methods such as positioning inmates and judges six feet apart or hosting teleconferences with the inmates and judges.~~ These costs may be eligible under the [State and Local Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program – Coronavirus Emergency Supplemental Funding \(CESF\) Program](#).

**Q: Would automated screening machines purchased and installed at County courthouses and public health building be and eligible Category B expense?**

**A:** The eligibility of durable medical equipment purchases under PA is in relation to the treatment or prevention of a patient's further deterioration and not necessarily applicable to the screening of individuals. Additionally, it is not clear whether purchasing the screening machines is the lower cost alternative. FEMA may review the costs on a case-by-case basis for cost reasonableness; however, the purchase of the screening machines does not appear to be an eligible emergency protective measure since the purchase is not being made at the direction of public health officials, is not directly required to save lives and protect public health and safety, and is not always the most effective option. Alternatively, the BJA CESF program may be able to cover these costs with no cost share requirement.

**Q: Is the purchase of ankle monitors for runaway juveniles who are symptomatic but not a priority for COVID-19 testing and cannot be placed in juvenile detention centers eligible for reimbursement?**

**A:** No, the purchase of ankle monitors is not an eligible Cat B expense as it is not directly required to save lives or protect public health and safety. These costs may be eligible under the [State and Local Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program – Coronavirus Emergency Supplemental Funding \(CESF\) Program](#).

### **Child Care Services**

**Q: Would establishing/contracting childcare services for critical/essential employees be considered an eligible emergency protective measure?**

**A:** Child care costs for health care workers, first responders, and essential employees is not the legal responsibility of the SLTT and therefore is not eligible for reimbursement under Category B. However, the CARES Act included \$3.5 billion in additional funding for the Child Care Development Block Grant Program (CCDBG) to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus. Updates will be posted on the HHS Office of Child Care COVID-19 resources page: [CCDBG COVID-19 Resources](#).

### **Temporary Facilities**

**Q: Is the lease or purchase of a vacant hotel or medical facility (ex. for-profit medical center for elective surgeries but vacant due to COVID-19) for the purpose of opening a temporary medical facility considered to be an eligible Cat B expense? If the answer is yes and the temporary medical facility is never utilized during the COVID-19 response, would those expenses remain eligible?**

**A:** Repurposing, renovating, or reusing existing facilities as temporary medical or sheltering facilities or constructing new temporary medical or sheltering facilities may be eligible for reimbursement under Category B when existing facilities are overwhelmed or reasonably forecasted to become overwhelmed. If an applicant is considering the use of a temporary facility, please alert FEMA PA and EHP as soon as a potential alternate site is identified. More information on environmental and historic considerations that may be involved in the use of a temporary facility can be found on the COVID-19 EHP Fact Sheets titled “EHP\_EPM Fact Sheet\_COVID-19” and “FP for Temp Facilities\_COVID-19” distributed by Zack Lamb on March 27, 2020 and located in Annex A of this document.

**Q: Can an Applicant lease, lease with an option to purchase, or purchase a hotel as a means of medical housing for isolating people? Would any option be better than the other?**

**A:** The lease or purchase of a facility for non-congregate medical sheltering may be eligible for reimbursement under Category B, subject to prior approval by FEMA. Sheltering solutions, such as hotels, motels, dormitories, etc., should be determined by the Applicant requesting assistance and must meet the criteria of non-congregate sheltering for the COVID-19 emergency as outlined on the [FEMA Non-Congregate Sheltering Fact Sheet](#) and [FEMA Non-Congregate Sheltering FAQ](#). Please work with Kevin Helland ([kevin.helland@fema.dhs.gov](mailto:kevin.helland@fema.dhs.gov), 720-626-3260) to address potential non-congregate sheltering needs.

**Q: Would insurance costs for temporary medical facilities be reimbursable?**

**A:** No, insurance costs related to temporary medical facilities are not reimbursable under the PA program. According to the PAPPG Page 79 (PDF Page 90), “FEMA does not provide PA funding for utility, maintenance, or operating costs in a temporary facility, even if these costs increase.” [Additionally, “FEMA does not require the Applicant to obtain and maintain insurance for temporary facilities.”](#) Insurance is considered an operating cost of the temporary facility and [is not required under the PA program](#). As such, insurance is not eligible for reimbursement. [To ensure FEMA Region VIII is not misapplying the policy, this question was submitted to HQ on April 6, 2020. Until a response is received, Region VIII will operate as if these expenses will not be eligible.](#)

**Q: [If an identified site for an alternative medical care facility is located in the floodplain, will the costs still be eligible for reimbursement?](#)**

**A:** [If no practicable alternative sites exist, and the site must be located in a high-risk flood hazard area, an assessment of the type of flood hazards at the site should be conducted, practicable opportunities for flood mitigation assessed, and a flood evacuation plan/emergency plan developed. These are adjudicated case-by-case. Please alert FEMA PA and EHP staff immediately if you are considering a site located in the floodplain.](#)

### **[Non-Congregate Sheltering](#)**

**Q: Does non-congregate sheltering delegation to Regional Administrator’s require pre-approval?**

**A:** The requirement for pre-approval still applies. The [non-congregate sheltering delegation of authority](#) delegated the approval authority to the Region, but did not alter the requirement that FEMA has to pre-approve non-congregate sheltering before the

work actually takes place. If work has already started, the authority to approve a waiver is delegated to the Region.

**Q: Can an eligible applicant utilize hotel rooms to isolate any police, fire, or emergency service staff that come into contact with individuals infected by COVID-19? If so, would the non-congregate sheltering requirements apply?**

**A:** Non-congregate sheltering of healthcare workers and first responders who require isolation due to COVID-19 exposure may be eligible when determined necessary by the appropriate state, local, tribal, or territorial public health officials and when assistance is not duplicated by another federal agency. Non-congregate sheltering requirements apply to the use of hotel rooms for police, fire, or emergency service staff exposed to COVID-19, and the eligible applicant must request approval from the Regional Administrator for expenses to be considered under Category B.

**Q: Is congregate sheltering still allowable under Category B even with the social distancing orders?**

**A:** Yes, congregate sheltering of individuals in facilities such as schools, churches, community centers, or other similar facilities is still allowable under Category B. FEMA may reimburse costs related to the use of facilities, labor, supplies and commodities, and other sheltering services for the congregate sheltering. Please refer to PAPPG Pages 67-69 (PDF Pages 78-80) for a list of potential eligible sheltering costs.

### **Special Considerations**

**Q: Will there be an EHP green sheet created for the emergency declarations?**

**A:** Yes, please refer to the COVID-19 EHP Fact Sheet titled “EHP\_EPM Fact Sheet\_COVID-19” distributed by Zack Lamb on March 27, 2020.

## **ANNEX A: HQ Memos, Fact Sheets and FAQs**

- [RPA Deadline Extension \(03.20.20\)](#)
- [Simplified Application Fact Sheet \(03.22.20\)](#)
- [Tribal Fact Sheet \(03.25.20\)](#)
- [PNP Fact Sheet \(04.01.20\)](#)
- [Procurement Under Emergency or Exigent Circumstances Memo \(03.17.20\)](#)
- [Procurement Under Emergency or Exigent Circumstances Fact Sheet \(03.16.20\)](#)
- [Eligible Emergency Protective Measures Fact Sheet \(3.19.20\)](#)
- [Non-Congregate Sheltering Delegation of Authority Fact Sheet \(03.19.20\)](#)
- [Non-Congregate Sheltering FAQ \(03.21.20\)](#)
- [Non-Congregate Sheltering Request Template](#)
- [Medical Care Fact Sheet \(03.30.20\)](#)
- [EHP EPM Fact Sheet](#)
- [EHP Temp Facilities Fact Sheet](#)



FEMA

March 20, 2020

MEMORANDUM FOR: Regional Administrators  
FEMA Regions I-X

FROM: Keith Turi  
Assistant Administrator  
Recovery Directorate

SUBJECT: COVID-19 Requests for Public Assistance Deadline

A handwritten signature in blue ink, appearing to read "K. Turi", is written over the typed name and title of the sender.

On March 13, 2020, the President declared the ongoing coronavirus (COVID-19) pandemic of sufficient severity and magnitude to warrant a nationwide emergency declaration covering all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"). Consistent with the declaration of a national emergency and due to the nature of this incident, it is necessary and appropriate to amend certain deadlines for the Public Assistance Program (44 CFR Part 206, Subpart G, Public Assistance Project Administration) on a national basis for the effective administration of the national emergency declaration and meet the needs of Recipients and Applicants across the country. This memorandum addresses the deadline for submission of Requests for Public Assistance (RPA).

To apply for Public Assistance, in accordance with procedures in 44 C.F.R. §206.202(c), Recipients must send a completed RPA (FEMA Form 90-49) to the Regional Administrator, through the FEMA Grants Portal, for each Applicant who requests Public Assistance. According to the regulation, these requests must be submitted "30 days after designation of the area where damage occurred." In this case, the President's emergency declaration designated all areas in the country on March 13, 2020.

Based on the national impacts of COVID-19, the unprecedented nature of the national emergency declaration, the number of potential Public Assistance Applicants, and the fact that these Applicants are actively engaged in life saving operations, enforcing the 30-day deadline is not appropriate. It would also not be appropriate to require each affected state, territory, and tribe to formally request an extension and to have each Regional Administrator individually respond while all parties are focused on response operations. Therefore, the RPA deadline is nationally extended and will remain open for the duration of the Public Health Emergency, as declared by the Secretary of Health and Human Services, unless an earlier deadline is deemed appropriate by the Assistant Administrator, Recovery Directorate. At that time, the Regional Administrator, pursuant to 44 CFR 206.202(f)(2), may extend the time limitations in 44 CFR 206.202(c). FEMA will accept RPAs for 30 days after the end of the declaration of the Public Health Emergency and provide 30-day advance notification if an earlier deadline is established or further extended by a Regional Administrator.

If you have any questions, please contact Traci Brasher, Director (Acting), Public Assistance Division at [traci.brasher@fema.dhs.gov](mailto:traci.brasher@fema.dhs.gov).

## FACT SHEET

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

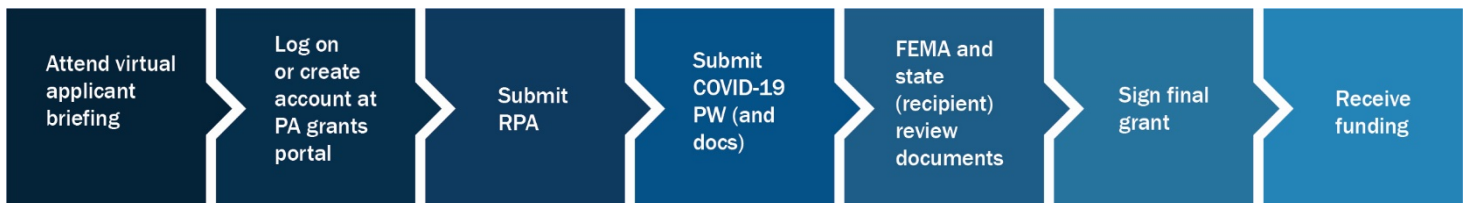
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This Fact Sheet supplements *Fact Sheet: Coronavirus (COVID-19) Pandemic Emergency Protective Measures* and provides an overview of the FEMA Public Assistance application process for recipients and applicants requesting reimbursement related to federal 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](https://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)

# Coronavirus (COVID-19): FEMA Assistance for Tribal Governments

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Based on the President's nationwide emergency declaration for the coronavirus (COVID-19) pandemic on March 13, 2020, tribal governments have the option to request Public Assistance from FEMA as either a Recipient or Subrecipient. This fact sheet provides additional information about the assistance FEMA can provide to tribal governments as either Recipients or Subrecipients during the nationwide COVID-19 emergency and replaces FEMA's March 22, 2020 Coronavirus (COVID-19) Response: Tribal Recipients Fact Sheet. Additional information on the Federal government's Coronavirus (COVID-19) Response can be found at: <https://www.fema.gov/coronavirus>.

## Tribal Options for Assistance

- Under the President's national emergency declaration, states, territories, and tribes are not required to request individual Emergency Declarations, which is typically the case, in order to receive FEMA assistance.
- A tribal government may choose to receive assistance:
  1. **As a Subrecipient under a state:** All states are Recipients for Public Assistance; tribes have the option of working with the state(s) that they are located in and requesting assistance as a Subrecipient; or
  2. **As a Recipient:** Each tribe has the option of signing a FEMA-Tribe Agreement and becoming a Recipient.
    - Tribes that are Recipients will have a direct relationship with FEMA and will receive assistance autonomously from the state or states in which they are located.
    - Tribes may choose to request their own emergency number from FEMA, if desired. However, having a different emergency number will have no practical effect on the provision of assistance or FEMA's relationship with the tribe.
- A tribal Subrecipient of FEMA Public Assistance works through the state or states in which the tribal government is located to coordinate assistance.
  - The tribal government will also need to work with the state to complete a [Request for Public Assistance](#) and submit it to FEMA through the PA Grants Portal.



FEMA

- A Recipient of FEMA Public Assistance, whether they have their own emergency number or not, has direct interactions with FEMA and has additional requirements and responsibilities for program and grant administration.
  - Tribes that have never been Recipients of FEMA assistance should review [FEMA's New Recipients of Disaster Grants Guide](#) and consult with FEMA regional Recovery Division staff to understand the typical administrative requirements of being a Recipient.
  - Currently, due to the incredible burden and stress on all American citizens from this unprecedented event, FEMA is looking to consolidate resources and processes in order to serve as many communities as quickly and efficiently as possible.
  - If appropriate, FEMA encourages tribal governments to work with their respective state or states for assistance. This in no way diminishes the important tribal government role of serving tribal members during this emergency.
  - FEMA understands that for some tribes this may not be possible, and FEMA respects a tribes' sovereign right of self-governance and will continue to work closely with tribes during this important time.
- More information on the Public Assistance grant process can be found in the [Coronavirus \(COVID-19\) Pandemic: Public Assistance Simplified Application Fact Sheet](#).
- On March 20, 2020, the Department of Health and Human Services (HHS) announced upcoming actions by the [Centers for Disease Control and Prevention \(CDC\) to provide \\$80 million in funding to tribes and tribal organizations](#) for resources in support of the COVID-19 response.
  - The [Indian Health Service \(IHS\)](#) is working closely with HHS and CDC to determine how the funds will be allocated and to distribute these funds to IHS/Tribal/Urban facilities in a timely manner.
  - As part of this upcoming funding action, CDC announced that it will issue a new non-competitive grant Notice of Funding Opportunity to reach all tribes that are eligible to apply.

## FEMA Role in COVID-19 Pandemic Response

- FEMA, in coordination with the [Department of Health and Human Services \(HHS\)](#), will assist state, local, tribal, territorial governments and other eligible entities with the health and safety actions they take on behalf of the American public.
- Tribal governments can express their intent to seek FEMA Public Assistance by notifying the FEMA Regional Administrator in the FEMA regional office in which the tribal government seat is located.

- As part of the tribal expression of intent, tribal governments should indicate that their emergency plan was executed.
- Each of the ten FEMA regions has Regional Tribal Liaisons to coordinate with tribes located within that respective region.
  - Regional Tribal Liaisons can connect tribes with FEMA leadership and program subject matter experts, as needed, for information, technical assistance and resources.

## Federal Assistance

- FEMA Public Assistance as a Recipient requires execution of a FEMA-Tribe Agreement (FTA) and execution of an emergency plan.
  - An FTA is submitted to the FEMA Regional Administrator and contains the understandings, commitments, and conditions under which federal disaster assistance will be provided.
  - FEMA regional offices can provide a draft copy to tribal governments for review. Once all parties have reviewed and made edits, a final version will be distributed for signature.
- A tribal government must confirm activation of its emergency plan to receive assistance as a Recipient. FEMA regulations do not specify legal requirements for emergency plan; only that a tribal government has one and activates it before requesting a declaration.
  - As indicated in the President's national emergency declaration, FEMA Public Assistance for this nationwide emergency will be provided at a 75 percent Federal/25 percent non-Federal cost share. As direct recipients, Tribal governments, like state and territorial recipients, will be responsible for the 25 percent cost share. Some states choose to share the 25 percent cost share with their Subrecipients to reduce the financial burden on local and tribal governments.
- Eligible emergency protective measures taken at the direction or guidance of public health officials in response to this emergency, and not provided or funded by the authorities of another federal agency, may be reimbursed under the FEMA Public Assistance program.
  - FEMA encourages officials to take appropriate actions that are necessary to protect public health and safety pursuant to public health guidance.
  - Reimbursable activities for the COVID-19 pandemic fall under Category B of the FEMA Public Assistance program—Emergency Protective Measures—and typically include the activation of State or Tribal Emergency Operations Centers, law enforcement and other measures necessary to protect public health and safety.

- The [Public Assistance Program and Policy Guide \(PAPPG\)](#) combines FEMA Public Assistance policy into a single volume and provides overview of program implementation process with links to other publications and documents that provide additional process details.
- More information on reimbursable activities may be found in the PAPPG and in the [Coronavirus \(COVID-19\) Pandemic: Eligible Emergency Protective Measures Fact Sheet](#).
- Federal disaster assistance grant programs have additional requirements to complete before FEMA allocates and dispenses grant funds. The [FEMA New Recipients of Disaster Grants Guide](#) describes requirements for Recipients in requesting and receiving FEMA disaster assistance grant funding.
  - A tribal government must have a FEMA-approved [Public Assistance Administrative Plan](#) before FEMA is able to provide assistance. A tribal-government specific template is available.
  - A Hazard Mitigation Plan is *not* required for FEMA Emergency Assistance. More information on FEMA's Hazard Mitigation Plan requirement, a condition for receiving certain types of *non-emergency* disaster assistance, can be found here: <https://www.fema.gov/hazard-mitigation-plan-requirement>.
- Tribal governments that choose to be a Subrecipient to a state(s) for FEMA Public Assistance should coordinate with the state(s).
- FEMA recognizes that some tribal governments have greater capacity than others. In order to streamline resource requests, it may be more efficient to maintain close coordination with county and state officials. However, tribal assistance can be provided across states and FEMA Regions.

## Definitions

*Applicant:* A non-federal entity that applies to be a Subrecipient of assistance under a Recipient's federal award (e.g., local government agency, housing authority, or private nonprofit organization).

*Subrecipient:* An Applicant that receives a sub-award from a Recipient to carry out part of a federal program.

*Recipient:* A non-federal entity that receives an award from a federal agency (e.g., state, territorial, or tribal government) to carry out an activity under a federal program.

## More Information

For more information, visit the following websites:

1. [Public Assistance Program and Policy Guide](#)
2. [Coronavirus \(COVID-19\) Pandemic: Eligible Emergency Protective Measures Fact Sheet](#)
3. [New Recipients of Disaster Grant Guide](#)
4. [Coronavirus \(COVID-19\) Pandemic: Public Assistance Simplified Application Fact Sheet](#)
5. [FEMA.gov/Coronavirus](#)
6. [Coronavirus \(COVID-19\)](#) (CDC)

# Coronavirus (COVID-19) Pandemic: Private Nonprofit Organizations

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All 50 states, the District of Columbia, five territories, and numerous tribes are working directly with FEMA under President Trump's March 13, 2020, nationwide emergency declaration for COVID-19. Under this emergency declaration, and subsequent major disaster declarations, certain private non-profit (PNP) organizations are eligible to apply for funding through FEMA's Public Assistance program. This fact sheet provides guidance for determining the eligibility of PNP applicants and work performed in accordance with the COVID-19 emergency and major disaster declarations.

## PNP Applicant Eligibility

To be eligible for Public Assistance, a PNP applicant must show that it has:

- A ruling letter from the Internal Revenue Service granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954; or
- Documentation from the state substantiating that the non-revenue producing organization or entity is a nonprofit entity organized or doing business under state law.<sup>1</sup>

Eligible PNPs must also own or operate an eligible facility.<sup>2</sup> For PNPs, an eligible facility is one that provides an eligible service, which includes education, utilities, emergency, medical, custodial care, and other essential social services.<sup>3</sup>

Private entities, including for profit hospitals or restaurants, are not eligible for assistance from FEMA under Public Assistance. However, state, local, tribal, and territorial government entities may contract with private entities to carry out eligible emergency protective measures. In these cases, FEMA will reimburse the eligible applicant for the cost of eligible work, and the applicant will then pay the private entity for the provision of services.

## PNP Work Eligibility

In accordance with sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the "Stafford Act"), eligible emergency protective measures taken to respond to the COVID-

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<sup>1</sup> 44 C.F.R. 206.221(f)

<sup>2</sup> 44 C.F.R. 206.222(b), 206.223(b)

<sup>3</sup> Stafford Act, Section 102(11); 44 C.F.R. 206.221(e). For non-critical PNP facilities, services must be provided to the general public.



**FEMA**



19 emergency at the direction or guidance of public health officials may be eligible for reimbursement under category B of FEMA's Public Assistance program.<sup>4</sup> Emergency work is that which is necessary to save lives or protect public health and safety. To be eligible, work must be the legal responsibility of an eligible applicant.<sup>5</sup>

Measures to protect life, public health, and safety are generally the responsibility of state, local, tribal, and territorial governments. In some cases, a government entity may be legally responsible to provide services and enter into an agreement with a PNP to provide those services (e.g., sheltering or food distribution). In these cases, Public Assistance funding is provided to the legally responsible government entity, which then pays the PNP for the cost of providing those services under the agreement.<sup>6</sup>

In limited circumstances, essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital. In these cases, PNPs that own or operate an eligible facility and perform eligible work, such as providing emergency, medical or custodial care services for which they are legally responsible in response to the COVID-19 incident, may be eligible for reimbursement of costs as a Public Assistance applicant.

For PNPs, operating costs (such as patient care and administrative activities) are generally not eligible even if the services are emergency services, unless the PNP performs an emergency service at the request of and certified by the legally responsible government entity. In such case, FEMA provides Public Assistance funding through that government entity as the eligible applicant.

## More Information

Further information about PNP eligibility can be found in the "Public Assistance Program and Policy Guide," FP 104-009-2, dated April 2018.

For more information, visit the following websites:

1. [FEMA Public Assistance Program and Policy Guide](#)
2. [U.S. Department of Health and Human Services](#)  
[Centers for Disease Control and Prevention](#)  
[Centers for Medicare & Medicaid Services](#)

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<sup>4</sup> For more information on eligible emergency protective measures see *Fact Sheet: Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures* (March 19, 2020), and the *Public Assistance Program and Policy Guide*, FP 104-009-2, (April 2018). 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.

<sup>5</sup> 44 C.F.R. 206.223(a)(3)


<sup>6</sup> *Public Assistance Program and Policy Guide*, FP 104-009-2, at pg. 60 (April 2018)




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](mailto: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](mailto: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](http://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](http://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.*

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

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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



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- 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

## More Information

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

For more information, visit the following federal government websites:

- [Coronavirus \(COVID-19\) \(CDC\)](#)
- [Centers for Medicare & Medicaid Services](#)

# Public Assistance: Non-Congregate Sheltering Delegation of Authority

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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 non-congregate 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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FEMA

# Coronavirus (COVID-19) Pandemic: Non-Congregate Sheltering

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Subsequent to President Trump's March 13, 2020, Nationwide Emergency Declaration for Coronavirus 2019 (COVID-19), the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) recognizes that non-congregate sheltering may be necessary in this Public Health Emergency to protect public health and save lives.

This document provides answers to frequently asked questions about non-congregate sheltering during the Secretary of Health and Human Services' (HHS') declaration of a Public Health Emergency for COVID-19.

## **1. What is the difference between medical sheltering, quarantine facilities, and non-congregate sheltering? Do alternative medical care facilities count as non-congregate shelters?**

The term "medical sheltering" is meant to address the specific needs directly resulting from this Public Health Emergency. For purposes of eligibility under the COVID-19 declarations, FEMA will consider non-congregate sheltering for health and medical-related needs, such as isolation and quarantine resulting from the public health emergency. Alternate care sites and temporary hospitals are not considered non-congregate sheltering and such requests should be routed through the proper channels. Please refer to the [Emergency Medical Care for COVID-19 Fact Sheet](#).

## **2. Who is the target population for non-congregate sheltering?**

Examples of target populations include those who test positive for COVID-19 who do not require hospitalization but need isolation (including those exiting from hospitals); those who have been exposed to COVID-19 who do not require hospitalization; and asymptomatic high-risk individuals needing social distancing as a precautionary measure, such as people over 65 or with certain underlying health conditions (respiratory, compromised immunities, chronic disease). Sheltering specific populations in non-congregate shelters should be determined by a public health official's direction or in accordance with the direction or guidance of health officials by the appropriate state or local entities. The request should specify the populations to be sheltered. Non-congregate sheltering of healthcare workers and first responders who require isolation may be eligible when determined necessary by the appropriate state, local, tribal, or territorial public health officials and



**FEMA**

when assistance is not duplicated by another federal agency.

### **3. What forms of non-congregate sheltering will FEMA support?**

Sheltering solutions should be determined by the Applicant requesting assistance, such as hotels, motels, dormitories, or other forms of non-congregate sheltering. The solutions should meet the criteria of non-congregate sheltering for the COVID-19 emergency, including what is necessary to protect public health and safety, be in accordance with guidance provided by appropriate health officials, and be reasonable and necessary to address the threat to public health and safety.

### **4. Must the Centers for Disease Control and Prevention (CDC) or state/local public health officials direct the use of non-congregate sheltering? Is it okay if another state/local official (e.g., emergency management office) directs the use?**

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 or be done in accordance with the direction or guidance of health officials by the appropriate state or local entities, in accordance with applicable state and local laws.

### **5. Does the non-congregate sheltering delegation apply to both emergency and major disaster declarations?**

Yes, the delegation applies to all incidents declared as a result of COVID-19.

### **6. Can you provide a template for non-congregate sheltering requests?**

Yes, there is a template request letter that the Applicant can use. In addition, Template Project Worksheets are currently being developed. Please contact your Regional point of contact for additional information concerning the template.

### **7. Can approval be state-wide? Could a FEMA Regional Administrator approve a state-wide strategy rather than individual requests?**

Requests should be submitted based on the state and/or local public health orders, along with relevant public health guidance that recommends sheltering be conducted in the manner that is being requested for reimbursement and must meet the criteria of the guidance issued by FEMA for COVID-19. In instances where the state is issuing the public health order along with relevant public health guidance for non-congregate sheltering for the state, it is possible for FEMA to approve a state-wide request.

A state-wide non-congregate sheltering request should outline the state's non-congregate sheltering plan with options that will be utilized in the state by local governments. Upon pre-approval of non-congregate sheltering, the state can be the sub-recipient, or a county/local government can be a sub-recipient.

Tracking mechanisms must be in place to provide data and documentation to establish the eligibility of costs for which the Applicant is requesting Public Assistance funding (including the need for non-congregate

sheltering of each individual, length of stay, and costs). As with any activity, lack of support documentation may result in FEMA determining that some or all of the costs are ineligible.

## **8. Can a FEMA Regional Administrator approve non-congregate sheltering after it has already begun?**

In limited circumstances where the nature of the emergency did not make a request feasible prior to beginning non-congregate sheltering, the Regional Administrator may approve non-congregate sheltering after it has already commenced.

## **9. Can a FEMA Regional Administrator allowed to delegate approval of non-congregate sheltering?**

No, this delegation may not be re-delegated. The Regional Administrator should approve, partially approve, or deny the request in writing. This documentation should be uploaded to the project in FEMA Grants Manager.

## **10. What wrap-around services are eligible? For example, are food or mental health counseling eligible?**

Eligible costs related to sheltering should be necessary based on the type of shelter, the specific needs of those sheltered, and determined necessary to protect public health and safety and in accordance with guidance provided by appropriate health officials. However, support services such as case management, mental health counseling, and others are not eligible.

## **11. How long can an individual to stay in non-congregate sheltering? How long can a non-congregate sheltering mission last?**

The length of non-congregate sheltering depends on the needs in each area and will be in accordance with the guidance and direction from appropriate health officials. Sheltering eligibility for sheltering activities may not extend beyond the state or local public health order or the HHS Public Health Emergency for COVID-19. Length of sheltering for individuals is based on health guidance and be limited to what is needed to address the immediate threat to public health and safety. The mission will depend on the level of community transmission in each area. Areas with high rates of community transmission, hospital admissions, and fatalities may need up to eight weeks. Reassessment at periodic intervals is necessary.

Regional Administrators should approve non-congregate sheltering in 30-day increments, or less if a re-assessment determines there is no longer a public health need, but not to exceed the duration of the order of the state or local public health officer. The state or local will need to provide a re-assessment of the continuing need for emergency non-congregate sheltering from a state public health official, as well as a detailed justification for the continuing need for emergency non-congregate sheltering. The non-congregate sheltering for an individual should be in accordance with the guidance and direction from appropriate health officials.

## **12. How will we handle congregate and non-congregate sheltering missions**



## **for future disasters in areas impact by COVID-19?**

Sheltering in future events will need to conform to current guidelines in place, including considerations for shelter operations in a pandemic environment. If there are additional costs incurred for such shelter operations, FEMA may reimburse those costs as eligible under the subsequent declaration requiring the shelter operations.

### **13. Can you provide additional clarity on avoiding duplication of benefits between FEMA and HHS?**

FEMA cannot duplicate assistance provided by another Federal agency. In this case, HHS is providing funding for certain costs in response to the COVID-19 pandemic. Each Applicant will need to agree to the stipulation in the grant conditions of all FEMA awards that funding is not also being received from another funding source. FEMA is coordinating with HHS to share information about funding from each Agency to assist in the prevention of duplication of benefits.

## **References**

For more information, visit the following websites:

1. [Public Assistance Program and Policy Guide](#)
2. [U.S. Department of Health and Human Services](#)  
[Centers for Disease Control and Prevention](#)  
[Coronavirus \(COVID-19\) \(CDC\)](#)  
[Centers for Medicare & Medicaid Services](#)

**Date**

Lee dePalo, FEMA Region VIII Administrator  
Federal Emergency Management Agency  
Denver Federal Center BLDG 710  
PO BOX 25267  
Denver, CO 80225

Thru: GAR/State Emergency Manager Emergency Manager

RE: Request for Approval of Non-Congregate Sheltering Activities

Disaster:

Subrecipient: **XXY**

PA ID: **XXX-XXXXXX-XX**

Mr. dePalo:

[List name of requestor, ie State of X Division of XYZ] requests the approval for emergency non-congregate sheltering activities under [Insert EM or DR #] to respond to the Coronavirus Disease 2019 (COVID-2019) and in accordance with the Public Assistance program.

[Requestor, ie- The State] requests approval of the activities as eligible emergency protective measures that may be reimbursed under Public Assistance category B – Emergency Protective Measures if necessary to save lives or protect public health and safety. This request is being made to ensure [1-2 high-level points about urgency and rationale].

**Background:**

*Requestor to provide key information to describe contextual and geographic details, and explanation of situation that could potentially warrant non-congregate shelter reimbursement. Be sure to include numbers of people affected or in need of the sheltering, the specific situations that warrant non-congregate shelter, and other implementation options that were assessed and justification for the option ultimately selected.*

*Describe the specific situation in question*

*Explain options considered assessed to address problem, and the justification for the option selected*

**Cost Analysis:**

Pursuant to the Public Assistance Program and Policy Guide (PAPPG), Chapter 2: VI.B.10.b *Sheltering*, the [Requestor] finds that non-congregate sheltering is the best available option for meeting the urgent needs of individuals affected by the Covid-19 emergency and to protect health and safety in the community. Initially, the sheltering will not extend beyond a 30-day duration as per PAPPG guidance. As the situation evolves, we will communicate with FEMA regarding any potential need for extension.

*Describe key financial considerations.*

Therefore, the estimated costs associated with the use of individual rooms (hotels, dorms, or other) for emergency sheltering from [initial dates of expected sheltering support] totals [\$XX] for [X# people].

Therefore the estimated cost associated with the use of Non-Congregate sites from [initial dates of expected sheltering support] totals [\$XX] for [X# people].

*Insert Table with financial information to include at minimum: number of people supported, cost per hotel room, number of days needed, and total costs estimated*

### **Conclusion:**

*Provide summary version of critical context that should be taken into consideration*

[Requestor] actively chose non-congregate sheltering to address the immediate public health and safety needs of individuals that were [situation causing displacement]. [Requestor] conducted assessments to review [best alternative possibilities]. But due to [quick points of context to justify this option], [shelter option, i.e. hoteling] for the affected population is ultimately the best way forward to preserve the health and safety of the community.

We confirm our review of the Regional Administrator's Memo re: Non-Congregate Sheltering Delegation of Authority and accept all criteria. Specifically, [Requestor] confirms that funding to support non-congregate sheltering has not been received by any other federal agency [insert any relevant information if needed]. [Requestor] will follow FEMA's Procurement Under Grants Conducted Under Exigent or Emergency Circumstances guidance; and include a termination for convenience clause in contracts. And applicable Environmental and Historic Preservation laws, regulations, and executive orders apply and will be adhered to as a condition of assistance.

Thank you for your consideration of this request.

If you have any questions, please contact [Person's Name] at [Phone and Email].

Sincerely,

[Signature]

[Requesting Representative's Name]

[Requesting Representative's Title]

### **Attachments:**

#### **1) Official order(s)**

[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. Please provide official order with your request.]

#### **2) Any other documentation supporting the request**

# Coronavirus (COVID-19) Pandemic: Emergency Medical Care

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The FEMA *COVID-19 Emergency Protective Measures Fact Sheet* included a list of eligible emergency medical care activities. This fact sheet provides additional guidance related to the eligibility of emergency medical care activities as an emergency protective measure under the Emergency Declaration and any Major Disaster Declaration authorizing Public Assistance (PA) for COVID-19.

## General Eligibility Considerations for Emergency Medical Care

Under the President's March 13 emergency declaration, and subsequent major disaster declarations, state, local, tribal, and territorial (SLTT) government entities and certain private non-profit (PNP) organizations are eligible to apply for PA.

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 the PA program. On March 19, 2020, FEMA released the *COVID-19 Emergency Protective Measures Fact Sheet* which outlines the types of emergency protective measures that may be eligible under the PA program in accordance with the COVID-19 Emergency Declaration.

General eligibility considerations for emergency medical care activities apply to all claimed work and associated costs. They include Applicant, Facility, Work, and Cost eligibility to which all claims are subject under the PA program.

## Applicant Eligibility

SLTT government entities are eligible to apply for PA. Certain PNP organizations are eligible to apply for PA, including those that own and/or operate medical care facilities.

Private for profit entities, including for profit hospitals, are not eligible for assistance from FEMA under PA. SLTT government entities may contract with for profit hospitals to carry out eligible emergency protective measures. FEMA will reimburse the eligible Applicant for the cost of eligible work, and the Applicant will then pay the private entity for the provision of services.

## Facility Eligibility

For SLTT governments, evaluating facility eligibility is not necessary for most emergency work. PNPs are generally



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not eligible for reimbursement for emergency services because they are not legally responsible for providing those services.

PNPs that own or operate a medical or custodial care facility are eligible for:

- reimbursement of costs from FEMA related to patient evacuation when such an action is needed.
- in limited circumstances, reimbursement when essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital.
- reimbursement of costs for emergency medical care, as outlined in the Eligible Emergency Medical Care Activities section.

## Work Eligibility

Work must be necessary as a direct result of the emergency or major disaster (44 CFR §206.223(a)(1)).

Costs must be directly related to COVID-19 cases. For example, emergency medical care costs related to a non-COVID-19 illness or injury are not eligible.

Costs for personal protective equipment (PPE) for health care providers who are working in a hospital treating COVID-19 patients are eligible, as it is necessary to prevent further spread of the virus and protect health care workers and other patients.

## Cost Eligibility

All assistance provided under PA is subject to standard program eligibility requirements, including reasonable cost, procurement, and duplication of benefits requirements.

Procurement requirements differ between state versus non-state entities and by normal versus emergency/exigent circumstances. Procurement requirements for the COVID-19 Declarations are:

- States and territorial governments 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.
- In accordance with the March 17, 2020, memorandum from David Bibo, Acting Associate Administrator for the Office of Response and Recovery, for the duration of the Public Health Emergency, as determined by the U.S. Department of Health and Human Services (HHS), local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing non-competitively procured contracts.
- SLTT governments may contract with medical providers, including private for-profit hospitals, to carry out any eligible activity described in the Eligible Emergency Medical Care Activities section below.
- The aforementioned memorandum and other information related to exigent and emergency circumstances procurement is available on the FEMA website at [www.fema.gov/news-](https://www.fema.gov/news-)

## FEMA cannot:

- Provide assistance under PA that is covered by another funding source.
- Duplicate assistance provided by HHS, including the Centers for Disease Control and Prevention (CDC), or other federal agencies.
  - This includes funding provided by the Public Health Emergency Preparedness Cooperative Agreement Program; the Public Health Crisis Response Cooperative Agreement; the Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases; and grants available from the HHS Office of the Assistant Secretary for Preparedness and Response.
- Provide PA funding for emergency medical care costs if they are covered by another source, including private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.
  - The Applicant must be able to provide documentation verifying that insurance coverage or any other source of funding, including private insurance, Medicaid, or Medicare, has been pursued or does not exist for the costs associated with emergency medical care and emergency medical evacuations.
  - Each applicant will need to agree to the stipulation in the grant conditions of all FEMA awards that funding is not also being received from another funding source. FEMA is coordinating with HHS to share information about funding from each agency to assist in the prevention of duplication of benefits.

## Other Considerations for Emergency Medical Care Eligibility

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 or expanding existing medical care capacity in response to the declared incident. Costs associated with emergency medical care should be customary for the emergency medical services provided. Other eligibility considerations specific to emergency medical care activities as an emergency protective measure under the COVID-19 Declarations are provided in this section.

### Time Limitations for Completion of Work

- Emergency medical care costs are typically only eligible for up to 30 days from the declaration date unless extended by FEMA.
- Under the COVID-19 Declarations, eligible emergency medical care costs are eligible for the duration of the Public Health Emergency, as determined by HHS.

### Public versus PNP Facility

- Emergency medical care is eligible as an emergency protective measure for public and PNP medical facilities, as long as the facility provides an emergency medical service necessary to save lives and/or

protect public health and safety. In this case, emergency medical care related to COVID-19 cases is eligible as an emergency protective measure.

## Emergency Medical Care versus Long-Term Medical Treatment

- Only emergency medical care that is necessary to save lives and/or protect public health and safety is eligible.

Long-term medical treatment is not eligible. This includes:

- Medical care costs incurred once a COVID-19 patient is admitted to a medical facility on an inpatient basis.
- Costs associated with follow-on treatment of COVID-19 patients beyond the duration of the Public Health Emergency, as determined by HHS.
- Administrative costs associated with the treatment of COVID-19 patients.

## Eligible Emergency Medical Care Activities

Emergency medical care activities under the COVID-19 Declarations include, but are not limited to:

- Triage and medically necessary tests and diagnosis related to COVID-19 cases
- Emergency medical treatment of COVID-19 patients
- Prescription costs related to COVID-19 treatment
- Use or lease of specialized medical equipment necessary to respond to COVID-19 cases
- Purchase of PPE, durable medical equipment, and consumable medical supplies necessary to respond to COVID-19 cases (note that disposition requirements may apply)
- Medical waste disposal related to eligible emergency medical care
- Emergency medical transport related to COVID-19
- Temporary medical facilities and expanded medical care facility capacity for COVID-19 for facilities overwhelmed by COVID-19 cases and/or to quarantine patients infected or potentially infected by COVID-19.
  - Temporary facilities and expansions may be used to treat COVID-19 patients or non-COVID-19 patients, as appropriate.

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 may also be eligible, subject to prior approval by FEMA.
  - Examples include sheltering for those who test positive for COVID-19 who do not require hospitalization but need isolation (including those exiting from hospitals); those who have been exposed to COVID-19 who do not require hospitalization; and asymptomatic high-risk individuals needing social distancing as a precautionary measure, such as people over 65 or with certain underlying health conditions (respiratory, compromised immunities, chronic disease).
- Sheltering specific populations in non-congregate shelters should be determined by a public health official's direction or in accordance with the direction or guidance of health officials by the appropriate state or local entities. The request should specify the populations to be sheltered.

## More Information

For more information, visit the following websites:

1. [Public Assistance Program and Policy Guide](#)

See PAPPG V3.1, Chapter 2:VI. Emergency Work Eligibility; Chapter 2:VI.B.9. Emergency Medical Care; and Chapter 2:VI.B.17. Temporary Relocation of Essential Services

2. [U.S. Department of Health and Human Services](#)

Centers for Disease Control and Prevention: [Coronavirus \(COVID-19\)](#)

[Centers for Medicare & Medicaid Services](#)

3. FEMA: [www.fema.gov/coronavirus](http://www.fema.gov/coronavirus)





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PARTNERS IN SHAPING RESILIENT COMMUNITIES



# COVID-19 Fact Sheet

## Environmental and Historic Preservation (EHP) and Emergency Protective Measures for COVID-19

### Environmental and Historic Preservation (EHP) Compliance and Conditions

The Office of Environmental Planning and Historic Preservation (OEHP) is committed to facilitating timely and prompt compliance reviews for COVID-19 activities. This includes identifying activity types where the Applicant will need to provide minimal information or documentation in order to conduct an environmental and historic preservation (EHP) review.

Although certain emergency protective measures are statutorily exempted from review under the National Environmental Policy Act (NEPA), these actions may still require review for compliance with other EHP laws, regulations, and executive orders. For activities where there is potential to adversely affect natural, historic, and/or archaeological resources, OEHP is working with our other federal agency partners to streamline EHP compliance through a programmatic approach.

Applicants are responsible for completing activities in a manner that complies with all state and local guidelines and for obtaining all necessary permits. Work in violation of local, State, or Federal laws, regulations, and executive orders may be ineligible for FEMA funding. Additionally, non-compliance with EHP conditions associated with individual projects may jeopardize receipt of federal funding.

### COVID-19 EHP Considerations

FEMA's Public Assistance Program will fund eligible emergency protective measures taken by a community to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe. While the list of eligible activities includes actions that do not affect the environment (such as provision of personnel, supplies, and equipment), there are activities associated that do have the potential to adversely affect natural, historic, and/or archaeological resources. Examples are:

- Repurposing, renovating, or reusing existing facilities as temporary medical or sheltering facilities
- Placement of prefabricated facilities on a site
- Construction of new temporary medical or sheltering facilities
- Storage of human remains and mass mortuary services
- Staging resources on an undeveloped site
- Proper disposal of medical waste

### EHP Information Requirements

For projects that do have the potential to adversely affect natural, historic, and/or archaeological resources, Applicants should be prepared to provide the following:

- Location of the work, including and latitude/longitude in decimal degrees (to the fifth decimal point) and site address. Maps or aerial imagery of the project area is also helpful.
- Description of any ground-disturbing activities, including site preparation, laying new or expanding existing utilities, and expansion of existing footprints.
- Dates of construction for facilities that are being reused, repurposed, or renovated.
- Description of modifications made to existing facilities.
- Photographs of the project site or facility.



## EHP Best Practices for Temporary Facilities

Responding to the COVID-19 pandemic may require repurposing, renovating, or reusing existing facilities, the placement of prefabricated facilities on a site, or the construction of new temporary facilities. In order to minimize potential impacts or effects to natural and cultural resources, minority populations, and low-income populations, States, Tribes, communities, and Applicants should consider the following:

- Avoid placement of temporary facilities in flood hazard areas and wetlands. While we recognize that the construction of temporary facilities may be necessary, the disruption of relocating these facilities in the future due to flooding—especially when occupants may not be sufficiently mobile—is too great of a risk.
- Avoid placement of temporary facilities in brownfields and other use restricted sites. While we recognize that the construction of temporary medical facilities may be necessary, we also recognize the health risks of the occupants, medical providers, and construction workers and short- and long-term health risks associated with exposure to chemicals.
- Ensure accessibility across the full range of clients and/or customers that need to utilize the services being provided by these facilities, including elements of the population with less capacity or mobility.
- Select pre-disturbed sites or existing hardened surfaces, such as parking lots, concrete pads, or artificial playing fields, whenever possible. Previously disturbed areas typically have critical infrastructure such as electricity, water, sewer, and other amenities already onsite or easily accessible nearby, which will minimize ground disturbance.
- Avoid new ground disturbance when possible. Should ground disturbance reveal archaeological resources, notify FEMA and State Historic Preservation Officer/Tribal Historic Preservation Officer immediately.
- If renovation of a facility is required, consider the impacts of renovation (e.g. exposure to asbestos, lead-based paint, or other environmental contaminants associated with past use of the property) on the health of occupants, medical providers, and construction workers.
- Document conditions by taking photographs before and after any work is carried out.

## Best Practices for Disposal of Medical Waste

FEMA recognizes that the COVID-19 response may result in the need for the disposal of medical waste. FEMA advises States, Tribes, and communities, and Applicants to:

- Follow state and local laws for disposal of medical waste.
- If disposing of medical waste, indicate if an existing site will be used.
- If a new disposal site is created, indicate if the waste will be landfilled or incinerated.

## Best Practices for Decontamination Activities

FEMA recognizes that decontamination activities such as spraying down of facilities and the operation of decontamination stations may be necessary for public health and safety. FEMA advises States, Tribes, communities, and Applicants to:

- Avoid/minimize run-off/disposal that enters stormwater systems or open waters.

## Additional Resources

For more information on the Office of Environmental Planning and Historic Preservation and EHP review, visit <https://www.fema.gov/office-environmental-planning-and-historic-preservation>.

For more information on FEMA Public Assistance and the COVID-19 response, contact your State Emergency Management Agency or tribal office or visit <https://www.fema.gov/public-assistance-local-state-tribal-and-non-profit> or <https://www.fema.gov/coronavirus>.



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## COVID-19 Fact Sheet

### Floodplain Considerations for Temporary Critical Facilities

#### Floodplain Considerations for Temporary Critical Facilities

Even a slight chance of flooding can pose too great a threat to the delivery of services provided by a critical facility (such as those that provide temporary medical services, including, but not limited to hospitals, medical sheltering, and mortuary facilities). Further, these critical facilities are likely to have occupants who may not be sufficiently mobile to evacuate in order to avoid injury or death during a flood. Site considerations for such facilities must include an evaluation of flood risk.

All critical facilities—including those of a temporary nature—should be located outside all high-risk flood hazard areas, including Zones V and A and Shaded X. Specifically, these facilities or uses should not be located in the Coastal High Hazard Area (including Zone V), the entire Special Flood Hazard Area (SFHA, or 1-percent-annual-chance flood hazard area), or the 0.2-percent-annual-chance flood hazard area (including shaded X zones).

For assistance provided for emergency work, FEMA complies with the spirit of Executive Order 11988, Floodplain Management to the extent practicable. To minimize the impacts of floods on human health, safety, and welfare, if a critical facility must be located in a high-risk flood hazard area, it should be designed to higher protection standards (if possible, for a temporary facility) and have flood evacuation plans.

The following steps should be taken when considering the placement of a temporary facility providing medical services or other critical facility to determine if the function, building systems, and equipment can remain operational in the event of a flood:

- Determine if the site, as well as ingress and egress to the site, is in a Coastal High Hazard Area (Zone V), the Special Flood Hazard Area (SFHA, or 1-percent-annual-chance flood hazard area), or the 500-year floodplain (0.2-percent-annual-chance flood hazard area);
- If the site is located in any of these high-risk flood hazard areas, the facility should not be located at that site.
- If no practicable alternative sites exist, and the site must be used, an assessment of the type of flood hazards at the site should be conducted (e.g., flood velocity, flood depth, wave action, etc.), practicable opportunities for flood mitigation assessed, and a flood evacuation plan/emergency plan developed.
- The emergency plan should include a plan for site evacuation and contingency for loss of facility's function in the event the facility is damaged and can no longer serve its intended purpose.

#### Additional Resources

For more information on the Office of Environmental Planning and Historic Preservation, visit <https://www.fema.gov/office-environmental-planning-and-historic-preservation>.

For more information on FEMA Public Assistance and the COVID-19 response, contact your State Emergency Management Agency or tribal office or visit <https://www.fema.gov/public-assistance-local-state-tribal-and-non-profit> or <https://www.fema.gov/coronavirus>.

## **ANNEX B: Other Federal Agencies Memos, Fact Sheets and FAQs**

- [DOJ CESF Solicitation \(03.30.20\)](#)
- [DOT FTA FAQ \(04.07.20\)](#)
- [HHS CDC FAQ \(03.23.20\)](#)
- [HHS Medicaid FFCR Act - Increased FMAP FAQ](#)
- [HUD CDBG Quick Guide \(03.19.20\)](#)
- [HUD CDBG Staff and Facility FAQ \(03.25.20\)](#)
- [HUD CDBG-DR Fact Sheet \(03.31.20\)](#)
- [USDA SFSP & SSO FAQ](#)

U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance



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## Coronavirus Emergency Supplemental Funding Program Solicitation FY 2020 Formula Grant Solicitation

CFDA #16.034

**Solicitation Release Date: March 30, 2020**

**Application Deadline: 11:59 p.m. eastern time on May 29, 2020**

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The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [Bureau of Justice Assistance](#) (BJA) is seeking applications for the Coronavirus Emergency Supplemental Funding Program.

This solicitation incorporates the [OJP Grant Application Resource Guide](#) by reference. The OJP Grant Application Resource Guide provides guidance to applicants on how to prepare and submit applications for funding to OJP. **If this solicitation expressly modifies any provision in the OJP Grant Application Resource Guide, the applicant is to follow the guidelines in this solicitation as to that provision.**

### Eligibility

The following entities are eligible to apply:

- States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments that were identified as eligible for funding under the Fiscal Year (FY) 2019 State and Local Edward Byrne Memorial Justice Assistance Grant (JAG) Program are eligible to apply under the Coronavirus Emergency Supplemental Funding (CESF) Program solicitation. NOTE: Only the State Administering Agency that applied for FY 2019 JAG funding for a state/territory may apply for the state allocation of CESF funding.

The eligible allocations for the FY 2020 CESF Program can be found at:  
<https://bja.ojp.gov/program/fy20-cesf-allocations>.

For the purposes of the CESF Program, please note the following:

- The term “states” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa. (Throughout this solicitation, each reference to a “state” or “states” includes all 56 jurisdictions.)



- The term “units of local government” includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state, or a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.
- All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

### Contact information

For technical assistance with submitting an application, contact the Grants Management System (GMS) Support Hotline at 888–549–9901, option 3, or via email at [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov). The GMS Support Hotline operates 24 hours a day, 7 days a week, including federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the NCJRS Response Center contact identified below **within 24 hours after the application deadline** to request approval to submit its application after the deadline. Additional information on reporting technical issues appears under “Experiencing Unforeseen GMS Technical Issues” in the **How to Apply (GMS)** section in the [OJP Grant Application Resource Guide](#).

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1–800–851–3420; via TTY at 301–240–6310 (hearing impaired only); by email at [grants@ncjrs.gov](mailto:grants@ncjrs.gov); by fax to 301–240–5830; or by web chat at <https://webcontact.ncjrs.gov/ncjchat/chat.jsp>. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date.

### Post-Award Legal Requirements Notice

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions, and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed in connection with award acceptance). OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application.

For additional information on these legal requirements, see the “Administrative, National Policy, and Other Legal Requirements” section in the [OJP Grant Application Resource Guide](#).

### Deadline details

Applicants must register in GMS at <https://grants.ojp.usdoj.gov/> prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the “Apply Online” button associated with the solicitation title. All registrations and applications are due by 11:59 p.m. eastern time May 29, 2020.

For additional information, see the “How to Apply (GMS)” section in the [OJP Grant Application Resource Guide](#).

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# Coronavirus Emergency Supplemental Funding Program Solicitation CFDA # 16.034

## A. Program Description

### Overview

The Coronavirus Emergency Supplemental Funding (CESF) Program will provide funding to assist eligible states, local units of government, and tribes in preventing, preparing for, and responding to the coronavirus.

**Statutory Authority:** The CESF Program is authorized by Division B of H.R. 748, Pub. L. No. 116-136 (Emergency Appropriations for Coronavirus Health Response and Agency Operations); 28 U.S.C. 530C.

### Permissible uses of Funds

Funds awarded under the CESF Program must be utilized to prevent, prepare for, and respond to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

Expenditures which require prior approval – There are no specific prohibitions under the CESF Program other than the unallowable costs that are identified in the DOJ Grants Financial Guide; however, the following items should be identified during application and appropriately justified as noted:

- **Individual items costing \$500,000 or more** – if the recipient intends to purchase an individual item that costs \$500,000 or more, those item(s) should be identified and thoroughly justified by the grantee and receive written prior approval from BJA post-award through the submission and approval of a Grant Adjustment Notice (GAN). Costs must be reasonable to receive approval.
- **Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA), and/or Unmanned Aerial Vehicles (UAV)** – if the recipient requests to purchase an UAS, UA, and/or UAV, Federal Aviation Administration approval must be obtained as outlined here: [https://www.faa.gov/news/fact\\_sheets/news\\_story.cfm?newsId=22615](https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=22615). Documentation related to these purchases should be included with the application or the applicant must receive written prior approval from BJA post-award through the submission and approval of a GAN.

Draw-down – Consistent with the CESF Program's purposes, which involve assistance in responding to the present national emergency in connection with the coronavirus, OJP has determined that eligible states (or State Administering Agencies) or units of local government may draw down funds either in advance or on a reimbursable basis. To draw down in advance, funds must be placed in an interest-bearing account, unless one of the exceptions



in 2 C.F.R. § 200.305(b)(8) apply. This interest-bearing account must be dedicated specifically for the CESF Program award, and funds from other awards or sources may not be commingled with the funds in the account established for the CESF Program award. It is not necessary that the interest-bearing account be a “trust fund.” For additional information, see [2 C.F.R. § 200.305](#).

**Prohibition of supplanting** – Funds may not be used to supplant state or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available.

**Limitation on direct administrative costs** – Funds may not be used for direct administrative costs that exceed 10 percent of the total award amount.

## B. Federal Award Information

Maximum number of awards BJA expects to make	1,873
Period of performance start date	January 20, 2020
Period of performance duration	2 years

Recipients have the option to request a one-time, up to 12-month extension. The extension must be requested via GMS no fewer than 30 days prior to the end of the performance period.

The expected eligible allocations for the FY 2020 CESF Program can be found at: <https://bja.ojp.gov/program/fy20-cesf-allocations>.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

### Type of Award<sup>1</sup>

BJA expects to make awards under this solicitation as grants. See the “Administrative, National Policy, and Other Legal Requirements” section of the [OJP Grant Application Resource Guide](#) for additional information.

### Financial Management and System of Internal Controls

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities) must, as described in the Part 200 Uniform Requirements<sup>2</sup> as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. See [OJP Grant Application Resource Guide](#) for additional information.

### Budget Information

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the “Limitation on Use of Award Funds for Employee Compensation; Waiver” provision in the “Financial Information” section of the OJP Grant Application Resource Guide.

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<sup>1</sup> For purposes of this solicitation, the phrase “pass-through entity” includes any recipient or subrecipient that provides a subaward (“subgrant”) to carry out part of the funded award or program.

<sup>2</sup> The “Part 200 Uniform Requirements” means the DOJ regulation at 2 C.F.R. Part 2800, which adopts (with certain modifications) the provisions of 2 C.F.R. Part 200.

## Cost Sharing or Match Requirement

The CESF Program does not require a match.

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

[Pre-agreement Costs \(also known as Pre-award Costs\)](#)

[Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs](#)

[Costs Associated with Language Assistance](#) (if applicable)

## C. Eligibility Information

For eligibility information, see the title page.

For information on cost sharing or match requirements, see [Section B. Federal Award Information](#).

## D. Application and Submission Information

### What an Application Should Include

See the “Application Elements and Formatting Instructions” section of the [OJP Grant Application Resource Guide](#) for information on what happens to an application that does not contain all the specified elements. (This solicitation expressly modifies the “Application Elements and Formatting Instructions” section of the OJP Grant Application Resource Guide by **not** incorporating paragraph two of that section (referring to nonresponsive applications or applications missing critical elements not “[proceeding] to peer review”). The solicitation further expressly modifies the “Application Attachments” section of the OJP Grant Application Resource Guide by **not** incorporating the “Applicant Disclosure of Pending Applications,” “Applicant Disclosure and Justification – DOJ High Risk Grantees,” and “Research and Evaluation Independence and Integrity” provisions.)

### 1. Application for Federal Assistance (Standard Form (SF)-424)

The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. See the [OJP Grant Application Resource Guide](#) for additional information on completing the SF-424.

**Intergovernmental Review:** This solicitation (“funding opportunity”) is subject to [Executive Order 12372](#). An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: [https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental\\_-Review-\\_SPOC\\_01\\_2018\\_OFFM.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental_-Review-_SPOC_01_2018_OFFM.pdf). If the applicant’s state appears on the SPOC list, the applicant must contact the State SPOC to find out about, and comply with, the state’s process under E.O. 12372. In completing the SF-424, an applicant whose state appears on the SPOC list is to make the appropriate selection in response to question 19, once the applicant has complied with its State E.O. 12372 process. (An applicant whose state does not appear on the SPOC list should answer question 19 by selecting the response that the: “Program is subject to E.O. 12372, but has not been selected by the State for review.”)

## 2. Program Narrative

Describe the specific coronavirus prevention, preparation, and/or response efforts that will be addressed with this funding and include a summary of the types of projects or items that will be funded over the 2-year grant period.

## 3. [Budget Information and Associated Documentation](#)

Please note that the budget narrative should include a full description of all costs, including administrative costs or indirect costs (if applicable).

See the Budget Preparation and Submission Information section of the [OJP Grant Application Resource Guide](#) for details on the Budget Detail Worksheet, and on budget information and associated documentation, such as information on proposed subawards, proposed procurement contracts under awards, and pre-agreement costs.

**This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the “Information on proposed subawards” provision in the “Budget Preparation and Submission Information” section of the OJP Grant Application Resource Guide.** Specifically, OJP is suspending the requirements for CESF grant recipients to receive prior approval (either at the time of award or through a Grant Adjustment Notice) before making subawards.

For additional information regarding subawards and authorizations, please refer to the subaward section in the [OJP Grant Application Resource Guide](#).

**Please see the OJP Grant Application Resource Guide for information on the following:**

## 4. [Indirect Cost Rate Agreement](#) (if applicable)

See the Budget Preparation and Submission Information section of the OJP Grant Application Resource Guide for information.

## 5. [Financial Management and System of Internal Controls Questionnaire \(including applicant disclosure of high risk status\)](#)

## 6. [Disclosure of Lobbying Activities](#)

## How to Apply

An applicant must submit its application through [GMS](#), which provides support for the application, award, and management of awards at OJP. Find information, registration, and submission steps on how to apply in [GMS](#) in response to this solicitation under **How to Apply (GMS)** in the [OJP Grant Application Resource Guide](#).

## E. Application Review Information

### Review Process

BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, achievable, and consistent with the solicitation. See the [OJP Grant Application Resource Guide](#) for information on the application review process.

In addition, if OJP anticipates that an award will exceed \$250,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the nonpublic segment of the

integrity and performance system accessible through the System for Award Management (SAM) (currently, the Federal Awardee Performance and Integrity Information System, FAPIIS).

**Important note on FAPIIS:** An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIIS, in its assessment of the risk posed by the applicant.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

## F. Federal Award Administration Information

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

### [Federal Award Notices](#)

#### [Administrative, National Policy, and Other Legal Requirements](#)

OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application.

In addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions, and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed in connection with award acceptance).

For additional information on these legal requirements, see the “Administrative, National Policy, and Other Legal Requirements” section in the [OJP Grant Application Resource Guide](#).

### [Information Technology \(IT\) Security Clauses](#)

#### **General Information about** [Post-Federal Award Reporting Requirements](#)

Any recipient of an award under this solicitation will be required to submit the following reports and data:

Required reports. Recipients typically must submit quarterly financial status reports, semi-annual progress reports, final financial and progress reports, and, if applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

See the [OJP Grant Application Resource Guide](#) for additional information on specific post-award reporting requirements.

OJP may restrict access to award funds if a recipient of an OJP award fails to report in a timely manner.

## **G. Federal Awarding Agency Contact(s)**

For OJP contact(s), see page 2 of this solicitation.

For contact information for GMS, see page 2.

## **H. Other Information**

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

[Freedom of Information and Privacy Act \(5 U.S.C. 552 and 5 U.S.C. 552a\)](#)

[Provide Feedback to OJP](#)

## Appendix A: Application Checklist

### Coronavirus Emergency Supplemental Funding Program: FY 2020 Solicitation

This application checklist has been created as an aid in developing an application.

#### What an Applicant Should Do:

##### *Prior to Registering in GMS:*

- ☐ Acquire a DUNS Number (see [OJP Grant Application Resource Guide](#))
- ☐ Acquire or renew registration with SAM (see [OJP Grant Application Resource Guide](#))

##### *To Register with GMS:*

- ☐ For new users, acquire a GMS username and password\* (see [OJP Grant Application Resource Guide](#))
- ☐ For existing users, check GMS username and password\* to ensure account access (see [OJP Grant Application Resource Guide](#))
- ☐ Verify SAM registration in GMS (see [OJP Grant Application Resource Guide](#))
- ☐ Search for and select correct funding opportunity in GMS (see [OJP Grant Application Resource Guide](#))
- ☐ Register by selecting the “Apply Online” button associated with the funding opportunity title (see [OJP Grant Application Resource Guide](#))
- ☐ Read OJP policy and guidance on conference approval, planning, and reporting available at [ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm](https://ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm) (see [OJP Grant Application Resource Guide](#))

If experiencing technical difficulties in GMS, contact the NCJRS Response Center (see page 2)

\*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contact designated within GMS at the time the account was established. Neither OJP nor the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

#### Overview of Post-Award Legal Requirements:

- ☐ Review the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2020 Awards](#)” in the [OJP Funding Resource Center](#).

**Scope Requirement:**

- ☐ The eligible allocations for the FY 2020 CESF Program can be found at:  
<https://bja.ojp.gov/program/fy20-cesf-allocations>.

**Eligibility Requirement:**

States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments that were identified as eligible for funding under the FY 2019 State and Local JAG Program will be eligible to apply under the CESF Program solicitation. NOTE: Only the State Administering Agency that applied for FY 2019 JAG funding for a state/territory may apply for the state allocation of CESF funding.

**What an Application Should Include:**

- ☐ Application for Federal Assistance (SF-424) (see [OJP Grant Application Resource Guide](#))
- ☐ Intergovernmental Review (see page 6)
- ☐ Program Narrative (see page 7)
- ☐ Budget Detail Worksheet (see page 7)
- ☐ Budget Narrative (see page 7)
- ☐ Indirect Cost Rate Agreement (if applicable) (see page 7)
- ☐ Financial Management and System of Internal Controls Questionnaire (see [OJP Grant Application Resource Guide](#))
- ☐ Disclosure of Lobbying Activities ([SF-LLL](#)) (see [OJP Grant Application Resource Guide](#))





## Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19)

These FAQs provide clarity regarding how COVID-19 preparations impact certain FTA requirements. They also contain recommendations from the Centers for Disease Control and Prevention (CDC) to help grantees and subgrantees prepare for COVID-19. (Updated 4/7/2020)

### Coronavirus Aid, Relief, and Economic Security (CARES) Act FAQs

- [Program Eligibility](#)
- [Program Requirements](#)

### Coronavirus Disease 2019 (COVID-19) FAQs

- [FTA Funding & Emergency Relief](#)
- [Civil Rights](#)
- [Transit Agency Responses](#)
- [CDC Recommendations for Workplace Preparedness & Protection](#)

## Coronavirus Aid, Relief, and Economic Security (CARES) Act



### Program Eligibility:

#### **Q: Are all expenses normally eligible under the Urbanized Area Formula Program (49 USC 5307) and the Formula Grants for Rural Area Program (49 USC 5311) eligible under the CARES Act?**

A: Yes, the CARES Act provides funds to prevent, prepare for, and respond to COVID-19. Although the priority for the funding is operational expenses, FTA will generally consider all expenses normally eligible under the Section 5307 and 5311 programs that are incurred on or after January 20, 2020 to be in response to economic or other conditions caused by COVID-19 and thus eligible under the CARES Act.

In addition, CARES Act funds are available for operating expenses for all FTA Section 5307 and 5311 recipients, including those in large urban areas, and including administrative leave for transit workers.

#### **Q: What is eligible as an operating expense?**

A: Funds available under the CARES Act are available for all operating activities (net fare revenues) that occur on or after January 20, 2020 are eligible.

In general, operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year, including personal protective equipment and cleaning supplies. See Chapter IV of the Urbanized Area Formula Program circular or Chapter III of the Formula Grants for Rural Areas circular for more information on eligible operating expenses.

The CARES Act funding can be used for administrative leave, such as leave for employees due to reductions in service or leave required for a quarantined worker.

#### **Q: Is there a limit for how much funding can be used for operating expenses?**

A: No. All funds made available under the CARES Act may be used for operating expenses.

#### **Q: What is meant by administrative leave?**

A: Administrative leave is an administratively authorized absence from duty without loss of pay or reduction in an employee's available leave. In the context of the COVID-19 public health emergency, administrative leave could include, but is not limited to, leave for an employee who is not required to work due to a reduction in service or leave for a worker who is quarantined after potential exposure to an individual infected with COVID-19.

#### **Q: Does the limit on using up to 10 or 20 percent of a recipient's apportionment of 5307 and 5311 funds for paratransit service in accordance with the Americans with Disabilities Act apply?**

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A: No. Funds provided under the CARES Act are available at a 100-percent federal share to maintain operations. As such, there is no limit on the amount of funds made available under the CARES Act that may be used to pay for paratransit service provided on or after January 20, 2020, which is typically an operating expense.

**Q: Are operating costs incurred under operations or maintenance service contracts with third parties, and administrative leave for third-party contractors, including intercity bus providers, eligible for FTA reimbursement under the CARES Act?**

A: It depends. Title XII of Division B of the CARES Act provides that administrative leave for public transportation operations personnel is an eligible expense. Expenses under third-party contracts for operations or maintenance services incurred on or after January 20, 2020, including third-party contract employees providing such service who are placed on administrative leave due to reduced service, are eligible for federal reimbursement. Whether an FTA recipient is responsible for such administrative leave will depend on the terms of its third-party contract.

**Q: Are FTA funds available for public transit agencies to reimburse third-party operations and maintenance contractors for the amounts provided in the contracts, even if the levels of service provided by the third-party contractors are reduced because of COVID-19?**

A: No. Federal funds can only be used to reimburse FTA recipients for actual operating or maintenance costs. However, an FTA recipient may use federal funds to reimburse a contracted operations or maintenance provider for employees placed on administrative leave if service levels are reduced, if the FTA recipient is responsible for salaries and benefits under the terms of its contract.

**Program Requirements:**

**Q: Do the normal Urbanized Area Formula Program (49 USC 5307) and the Formula Grants for Rural Area Program (49 USC 5311) requirements apply to these funds?**

A: Yes, all the normal Section 5307 and 5311 requirements apply to funds made available under the CARES Act, with the following exception:

Transportation Improvement Program (TIP) or the Statewide Transportation Improvement Program (STIP): CARES Act funds used to pay for operating expenses do not need to be included in the TIP/STIP. CARES Act funds used to pay for capital expenses for emergency relief do not need to be included in the TIP/STIP unless the projects are for substantial functional, locational, or capacity changes. 23 CFR §§ 450.326(e)(5), 450.218(g)(5).

Note: The Emergency Relief docket remains open and available for requests for relief from FTA statutory and administrative requirements of Section 5307 and 5311 funding in states that have declared an emergency or the President has declared a major disaster under Section 401 of the Stafford Act.

**Q: What is the federal share of a CARES Act grant?**

A: The federal share for all grants awarded under the CARES Act is up to 100 percent, at the discretion of the recipient.

**Q: What is the period of availability to obligate or spend CARES Act funding?**

A: Funds are available until expended. There is no lapse date to obligate funds available under the CARES Act. Transit systems are encouraged to spend funds expeditiously to respond to local needs.

**Q: Is there a deadline by which funds must be used?**

A: No, however grants for operating expenses may not be used for operating expenses incurred prior to January 20, 2020.

**Q: Does the requirement apply that states must use at least 15 percent of the Formula Grants for Rural Area Program (49 USC 5311) funding for intercity bus transportation, unless the Governor certifies, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately?**

A: Yes. All requirements for the Section 5311 program apply unless otherwise noted.

**Q: Do projects have to be in the Transportation Improvement Program (TIP) or the Statewide Transportation Improvement Program (STIP)?**

A: It depends. CARES Act funds used to pay for operating expenses do not need to be included in the [Transportation Improvement Program \(TIP\)](#) or [Statewide Transportation Improvement Program \(STIP\)](#). CARES Act funds used to pay for capital expenses for emergency relief do not need to be included in the TIP/STIP unless the projects are for substantial functional, locational, or capacity changes. 23 CFR §§ 450.326(e)(5), 450.218(g)(5). Accordingly, capital projects to prevent, prepare for, and respond to COVID-19 that involve substantial functional, locational, or capacity changes must be included in the TIP/STIP.

**Q: Do CARES Act grants have to be sent to the Department of Labor (DOL) for certification?**

A: Yes. The CARES Act requires that grants using funds made available under the CARES Act receive DOL certification consistent with current Section 5307 and 5311 procedures.

**Q: Does a new split letter need to be submitted by designated recipients of CARES Act funding?**

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A: Yes. Split and/or sub allocation letters must be updated to include funds made available under the CARES Act. Once suballocation letters for FY 2020 funding are finalized, they should be uploaded as part of the application into TrAMS. Recipients are encouraged to work expeditiously to agree upon the sub allocation of CARES Act funds.

**Q: Can I seek a waiver from requirements under the Emergency Relief docket for CARES Act funds?**

A: Yes. The Emergency Relief docket remains open and available for requests for relief from FTA statutory and administrative requirements of Section 5307 and 5311 funding in states that have declared an emergency or the President has declared a disaster.

## FTA Funding & Emergency Relief

**Q: Is funding available under FTA's Emergency Relief Program for public transportation expenses related to COVID-19?**

A: Capital and operating activities undertaken in response to COVID-19 are eligible for reimbursement under the Urbanized Area Formula Program (49 U.S.C. 5307) and Formula Grants for Rural Areas Program (49 U.S.C. 5311). FTA Acting Administrator K. Jane Williams has issued a [Notice of Concurrence](#) with declarations of emergency issued by Governors that relate to COVID-19. Accordingly, for recipients in states in which the Governor has declared such an emergency (49 U.S.C. 5324), FTA will permit Urbanized Area Formula Program or Formula Grants for Rural Areas Program funding to be used for COVID-19-related public transportation capital or operating expenses at an 80-percent federal share, regardless of whether operating expenses generally are an eligible expense for a recipient.

Pursuant to FTA's [Emergency Relief rule](#) at 49 CFR part 602, eligible activities include emergency protective measures to eliminate or lessen threats to public health and safety, such as performing enhanced cleaning/sanitizing of rolling stock, stations, bus shelters, etc.; placing hand sanitizer dispensers in high-traffic areas; and providing personal protective equipment as appropriate.

**Q: Has FTA waived any federal requirements?**

A: FTA has established an [Emergency Relief docket](#) that allows recipients in states in which the Governor has declared an emergency related to COVID-19 to request temporary relief from federal requirements under 49 U.S.C. Chapter 53 as well as the provisions of any non-statutory FTA requirements. The ER docket should only be used to request a waiver of federal requirements. All other questions regarding COVID-19 should be directed to [FTAresponse@dot.gov](mailto:FTAresponse@dot.gov).

Some federal requirements include specific provisions related to emergencies, and therefore, no FTA waiver is necessary. For example, federal procurement standards established in 2 CFR part 220.317-326 permit the use of a noncompetitive (sole source) procurement when the circumstances of an emergency (or public exigency) would not permit a delay resulting from competitive solicitation.

**Q: How can FTA funding support transit agency response measures?**

A: FTA grantees may use their [Urbanized Area Formula Grants \(Section 5307\)](#) and [Formula Grants for Rural Areas \(Section 5311\)](#) funds to take protective measures to protect health and safety, such as cleaning of rolling stock, which is considered preventive maintenance (a capital expense) and is eligible for an 80-percent federal match. Personal protective equipment (PPE) and other measures are eligible as either a maintenance or operating expense, whichever is appropriate.

**Q: Can Section 5311 Rural Transportation Assistance Program (RTAP) funds reimburse recipients for cancelled training?**

A: Yes, if the training costs are explicit in the award document and the recipient cannot renegotiate or obtain a refund of the costs, Section 5311 RTAP funds may be used to pay the fees.

**Q: When will this emergency relief program eligibility be effective and for how long?**

A: Recipients have pre-award authority effective on the date that the Governor or appropriate state official declared a state of emergency, or an earlier incident date if the declaration specifies one. If the President has also made a major disaster declaration for the state, pre-award authority is effective from the start of the earliest incident period. The flexibility will remain in place for eligible expenses incurred for the duration of the relevant state of emergency. Recipients may use any currently apportioned Section 5307 or 5311 funding for these expenses including funds that may be currently obligated for other purposes but not expended.

**Q: What is the start date for Section 5311 subrecipients to incur expenses at the 80/20 match rate?**

A: Recipients have pre-award authority effective on the date that the Governor or appropriate State official declared a state of emergency, or an earlier incident date if the declaration specifies one. If the President has also made a major disaster declaration for the State, pre-award authority is effective from the start of the earliest incident period. The flexibility will remain in place for eligible expenses incurred for the duration of the relevant state of emergency.

**Q: Does the flexibility for formula funding include Section 5310?**

A: No. By law, only the Urbanized Area Formula Program and the Rural Formula Program funds can be used under the provisions of FTA's Emergency Relief Program.

**Q: Can public transportation assets, such as vehicles and facilities, acquired with FTA funds be used for non-transit activities in response to COVID-19?**

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A: Yes. [FTA Circular 5010.1E](#) provides that such use must not conflict with the approved purposes of the asset and must not interfere with the intended transit uses of the project property. An acceptable incidental use, such as meal or grocery delivery, does not affect a property's transit capacity. In cases where a recipient has reduced service levels in response to COVID-19, the recipient may utilize FTA funded assets for other emergency response activities as long as such use does not interfere with its remaining limited service.

**Q: May recipients add new routes to take schoolchildren to school or other sites for meals?**

A: Yes. Recipients may establish new routes that serve critical community needs at any time. [FTA's charter rule](#) at 49 CFR 604.3(c)(1) defines charter service as the exclusive use of a bus or van for a negotiated price. If a recipient provides exclusive transportation for schoolchildren to meal sites, and the service is funded by a third-party, such service would be categorized as a charter service. Although normally prohibited under FTA formula funding, charter service is eligible for COVID-19 response for up to 45 days from the beginning of each state of emergency incident period. For charter services lasting longer than 45 days, the recipient should submit a request to the [Emergency Relief Docket](#).

**Q: Can Urbanized Area Formula Grant (Section 5307) recipients program operating funding above what is stated in Table 3a of the FY2020 apportionment? Is it simply a shift in COVID-19 operating expenses to eligible capital line items?**

A: Yes. Under FTA's emergency relief authority (49 U.S.C. 5324), recipients of Urbanized Area Formula Grants (5307) may use any of the Section 5307 funding currently allocated to the agency, including unexpended funds in obligated grants, for operations activities in response to COVID-19. Recipients may use as much of that for operating expenses as needed, beyond the maximum specified in the apportionment tables, as long as those expenses are in response to COVID-19. The project sponsor should first contact the FTA Regional Office to discuss the request.

**Q: If a tribal government declared a State of Emergency before the state in which it is located, may the tribal transit provider use that earlier date?**

A: Yes, a transit provider affiliated with the tribal government may use the earlier date.

**Q: Are all operating expenses eligible under the additional flexibilities for existing formula funds?**

A: No. Only those expenses directly related to responding to COVID-19 are considered emergency relief and eligible for Section 5307 or Section 5311 funds under the FTA's Emergency Relief Program. See the [Emergency Relief Manual](#) (49 U.S.C. 5324). Examples of such expenses include:

- Removal of health and safety hazards, such as cleaning of vehicles and facilities
- Costs associated with shutting down or restarting service
- Materials such as hand sanitizer, gloves, soap, and cleaners
- Emergency protective gear relevant to the emergency
- Temporary service, that is not part of regular service, provided in response to the emergency

Section 5307 and section 5311 funds may be used to reimburse operating expenses not directly related to responding to COVID-19, including maintaining regular or reduced service, at the standard Federal share for those recipients that are normally eligible for operating assistance.

**Q: Do agencies have to amend the Statewide Transportation Improvement Program (STIP) and the Metropolitan Transportation Improvement Program (MTIP) before applying for grants using this eligibility?**

A: No. FTA planning regulations at 23 CFR 450.218(g)(5) and 450.326(e)(5) provide that emergency relief projects, such as those eligible under the expanded COVID-19 eligibility, are not required to be in the STIP or MTIP if they do not involve substantial changes to the function, location, or capacity of the asset(s) involved. Expenses related to cleaning vehicles, purchasing cleaning materials or personal protective equipment, and shutting down or restarting service do not need to be included in the STIP/MTIP.

**Q: Will the increased flexibilities have an impact on how Section 5307 formula funds are programmed in the grant application?**

A: Yes, please work with your [FTA Regional Office](#) to determine the proper Transit Award Management System (TrAMS) code to use for COVID-19 related emergency response activities.

**Q: Does a State DOT need to amend all active operating grants in TrAMS and grant agreements with sub-recipients?**

A: Yes, for grants in which the State DOT and/or its subrecipients will use the expanded flexibilities. Active grant award recipients, under programs Section 5307 and 5311, that would like the increased flexibility offered will need to complete an award amendment or submit a new application. Award recipients will need to realign funds provided to sub-recipients specifically for COVID-19 Response Activities to the "ER" Account Classification Code (ACC), which was set up by the recipient for the increased flexibility.

## Civil Rights

**Q: May a transit agency restrict Americans with Disabilities Act (ADA) complementary paratransit trips to essential medical trips?**

A: No. The DOT [ADA regulations](#) at 49 CFR 37.131(d) expressly prohibit paratransit providers from imposing restrictions or priorities based on the trip purpose. Further, medical trips are not the only trips that may be essential to a passenger. An agency may send a request and encouragement to its paratransit customers asking them to cancel all nonessential trips. Transit agencies often use this approach, for

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example, in impending weather events. If a paratransit rider, however, wants to take a trip, the agency cannot deny the request due to the purpose of the trip.

The establishment of trip purpose restrictions or priorities is permitted under 49 CFR 37.133(c) only for subscription service. Further, because DOT ADA regulations do not require subscription service, it may also be suspended or cancelled.

**Q: Are Title VI equity analyses required for emergency service cuts and changes during COVID-19?**

**A:** No. Under [FTA's Title VI Circular](#) 4702.1B, transit providers that operate 50-or-more fixed route vehicles in peak service and are located in an urbanized area (UZA) with a population of 200,000 or more, must perform a service equity analysis whenever they make a major service change. The service equity analysis evaluates the impacts of the proposed service changes on Title VI-protected populations and low-income populations. Temporary service changes in response to an emergency do not rise to the level of a major service change, so a service equity analysis is not required. Similarly, FTA exempts all temporary fare changes enacted as a result of an emergency from the fare equity analysis requirement. However, if a transit agency chooses to make permanent any changes made during an emergency, then the transit agency must perform a service or fare equity analysis.

FTA does expect that all transit agencies take reasonable measures to implement temporary service or fare changes equitably to prevent unintentional discrimination. FTA does not require a transit agency to document this process, get board approval prior to implementing changes, or share documentation on the changes with FTA, but FTA recommends that transit agencies document the rationale for specific service reductions, as well as steps taken to ensure equitable reductions in service, in the event someone files a complaint.

## Transit Agency Responses

**Q: May transit providers post signs requesting those who are sick or who have had contact with COVID-19 not to board the van?**

**A:** Yes, transit providers may post such signs but they are not required to do so. Transit agencies should make decisions about health precautions and how best to implement them in collaboration with local health officials. These are local decisions.

**Q: How should a public transportation system determine whether it should suspend operations in an area with an outbreak?**

**A:** FTA grantees should follow the direction of local and state public health and law enforcement agencies. This local and state information generally is coordinated with the Centers for Disease Control and Prevention (CDC) and the Department of Homeland Security and is the most accurate assessment of the situation locally. A transit agency also should notify FTA before suspending operations.

**Q: What are other transit agencies doing in response to COVID-19?**

**A:** Many transit agencies are responding with safety alerts and documents, including:

- The New York Metropolitan Transportation Authority deployed [health guidance](#) in English, Chinese, Spanish, Russian, and Korean across the system on 3,600 subway screens, 2,000 bus screens, and at 84 subway station street entrances, and issued a press release.
- The Metropolitan Atlanta Rapid Transit Authority's Police Department issued an [Emergency Preparedness Bulletin](#) to employees.
- The Los Angeles County Metropolitan Transportation Authority issued an [interoffice memo](#) to its staff.
- Bay Area Rapid Transit is taking [Emergency Preparedness actions](#), updated their website with messaging to the public, and is utilizing a Public Health Recommendations poster.
- King County Metro is performing daily cleaning of buses and water taxis, and has created an informational page on their website and sent an [email to stakeholders](#).
- Sound Transit issued a [blog post](#) and Community Transit posted [information](#) on their website.

## CDC Recommendations for Workplace Preparedness & Protection

The following were prepared by the CDC for posting by FTA:

**Q: (CDC) Are masks or other protective gear recommended for transit workers?**

**A:** Transit agencies and workers should follow the CDC's recommendations for personal protective equipment (PPE). See more [CDC FAQs](#) on how to protect yourself.

Additionally, transit workers are encouraged to perform regular hand hygiene, including using a hand sanitizer that contains at least 60% alcohol. If hands are visibly soiled, wash hands with soap and water for 20 seconds. Transit workers should avoid touching their eyes, nose, and mouth with unwashed hands and should avoid close contact with people who are sick.

There is no specific Occupational Safety and Health Administration (OSHA) standard for PPE explicitly for COVID-19. However, some OSHA requirements may apply to preventing occupational exposure to COVID-19, including OSHA's PPE standards and General Duty Clause of the Occupational Safety and Health (OSH) Act of 1970. See OSHA [Guidance on Preparing Workplace for COVID-19](#).

**Q: (CDC) How can transit agencies and operators best begin a constructive dialogue about COVID-19 with public health officials in their local community?**

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A: Transit agencies are encouraged to reach out to local public health officials to establish ongoing communications to facilitate access to relevant information before and during an outbreak.

**Q: (CDC) What transit interior surfaces require the most attention and what cleaning solutions are the most effective against the virus? How frequently should cleaning occur?**

A: High touch surfaces should be cleaned and disinfected at least once a day.

- High touch surfaces include kiosks, turnstiles, benches, railings, handrails, garbage cans, door handles, payphones, restroom surfaces (faucets, toilets, counters), poles, handrails, seats, benches, grab bars, and exit buttons.
- If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection.
- Products registered with EPA for use against novel coronavirus SARS-CoV-2 (the cause of COVID-19) are expected to be effective against COVID-19 based on data for harder to kill viruses. Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, etc.). See this [list of products](#) registered with EPA for use against novel coronavirus SARS-CoV-2.
- For soft or porous surfaces such as carpeted floor, rugs, and drapes, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces.
- Staff should wear PPE in accordance with the disinfectant manufacturer's instructions. After removing PPE, staff should wash their hands with soap and water for at least 20 seconds.

**Q: What actions can transit agencies take to increase COVID-19 preparedness for potential outbreaks in their service areas?**

A: CDC has developed [interim guidance](#) for businesses that includes planning considerations and recommendations for developing an infectious disease outbreak response plan.

**Q: What personal protective equipment should we provide to our employees?**

A: The Occupational Safety and Health Administration (OSHA) hosts a [webpage summarizing OSHA standards and directives](#) and other related information that may apply to worker exposure to COVID-19. In addition, monitor OSHA's [COVID-19 webpage](#) for any potential updates or recommendations.

**These FAQs do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Grantees and subgrantees should refer to FTA's statutes and regulations for applicable requirements.**

Updated: Tuesday, April 7, 2020

*Related Links*

- [FTA Novel Coronavirus \(COVID 19\) landing page](#)
- [Coronavirus Disease 2019 \(COVID-19\)](#)
- [What the U.S. Government is Doing](#)
- [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#)
- [Coronavirus Resources at the Department of Transportation](#)

*Contact Us*

**Office of Transit Safety and Oversight COVID-19 Awareness**

Federal Transit Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
United States  
[FTAResponse@dot.gov](mailto:FTAResponse@dot.gov)

Business Hours:  
8:30am-5:00pm ET, M-F

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## Grants

# General Funding and Grants Frequently Asked Questions

CDC is receiving funding and grants questions from its recipient community due to Coronavirus Disease 2019 (COVID-19). Below is a list of Frequently Asked Questions that addresses some of the questions from our recipient community. This is a rapidly evolving situation, and we will continue to provide updated guidance and information as it becomes available or as we receive additional questions whose responses are helpful to others.

## Frequently Asked Questions

### 1. When will tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes receive funding provided for in the supplemental appropriation?

CDC is currently working across the Administration, and gathering input from tribal organizations, to finalize a plan to allocate these funds and maximize public health impact and reach to tribal populations. On Friday, March 6, 2020, the President signed the [Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020](https://www.congress.gov/116/bills/hr6074/BILLS-116hr6074enr.pdf). [The supplemental contains more than \\$8 billion, of which \\$950 million is specifically directed for grants or cooperative agreements to states, localities, territories, tribes, tribal organizations, or health service providers to tribes to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities. Congressional direction also states CDC must allocate no less than \\$40 million of the funds described above to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes.](https://www.congress.gov/116/bills/hr6074/BILLS-116hr6074enr.pdf)

### 2. Will you accept late applications?

When a delay occurs because the applicant or recipient is directly impacted by COVID-19, CDC will consider extending the application due date beyond the date specified in the Notice of Funding Opportunity (NOFO) on a case-by-case basis, in accordance with the Department of Health and Human Services (HHS) Grants Policy Statement "Submitting an Application," Part I-25-26. Please submit your request to extend the NOFO deadline to the assigned grants management specialist/program official noted in the Notice of Funding Opportunity under Agency Contacts prior to the NOFO closing date. Your request should include enough detail about the delay so that CDC can determine whether circumstances justify extending the NOFO application submission deadline.

### 3. Can I receive relief on the submission of continuation applications?

Yes, see answer 2 above.

### 4. Can I request an extension to submit letters of support?

If the impact of COVID-19 prevents an applicant from securing required letters of support, please submit your application without that documentation by the established due date, with an explanation of the cause for delay. Letters of support should be submitted as soon as possible after the deadline. Please contact your assigned grants management officer/program official for further discussion and guidance.

### 5. Can you provide guidance regarding recipients/subrecipients not completing activities due to COVID-19?





If a recipient, either directly or via its subrecipients, is unable to complete approved activities because of disruptions created by the COVID-19 public health emergency, please contact your assigned grants management officer and program official for further discussion and guidance.

### 6. Will local and county governments receive funding?




As of March 17, 2020, CDC awarded more than \$604 million to state and certain local jurisdictions to conduct critical public health activities in their communities during this emergency. County and local governments may contact their state health officer for additional information on the distribution of funding already made available under direct awards to their state.



**7. Are there any flexibilities for grant management activities?**

Yes, on March 19, 2020, the Office of Management and Budget (OMB) issued Memorandum [M-20-17](https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf)   (<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>) that provides administrative, financial management, and audit reporting relief for recipients and applicants of federal financial assistance directly impacted by COVID-19. This memorandum provides similar administrative relief listed in [M-20-11](https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf)   (<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf>) issued on March 9, 2020, to an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID-19 crisis. These flexibilities are time limited and will be reassessed by OMB within 90 days of the memorandum.



**8. Is there guidance for the temporary reassignment of state, tribal, and local personnel during a declared federal public health emergency?**

Grant recipients may need to temporarily reassign state, tribal, or local personnel during a declared federal public health emergency. CDC's [webpage](https://www.cdc.gov/grants/public-health-emergencies/covid-19/temporary-reassignment-personnel/index.html) ([/grants/public-health-emergencies/covid-19/temporary-reassignment-personnel/index.html](https://www.cdc.gov/grants/public-health-emergencies/covid-19/temporary-reassignment-personnel/index.html)) provides information about the HHS Assistant Secretary for Preparedness and Response (ASPR) guidance for the temporary reassignment of state, tribal, and local personnel. The webpage includes links to the [ASPR website](https://www.phe.gov/Preparedness/legal/pahpa/section201/Pages/default.aspx)  (<https://www.phe.gov/Preparedness/legal/pahpa/section201/Pages/default.aspx>), including the [ASPR temporary reassignment request form](https://www.phe.gov/Preparedness/legal/pahpa/section201/Documents/aspr-temp-assignmt-request.pdf)   (<https://www.phe.gov/Preparedness/legal/pahpa/section201/Documents/aspr-temp-assignmt-request.pdf>) so that a state governor, tribal leader, or designee can request the reassignment of personnel.



**9. Can recipients redirect funds within their cooperative agreement to COVID-19 activities?**

Redirection of funds may be allowable when the funds that will be redirected for COVID-19 activities are within the scope of the current award and the award's statutory authority and do not duplicate activities with other CDC funded and federally funded activities. Please contact your assigned grants management officer and program official for further discussion and guidance.

**10. Can recipients be reimbursed for costs incurred for canceled meetings, travel, conferences?**

On March 19, 2020, the Office of Management and Budget (OMB) issued Memorandum [M-20-17](https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf)   (<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>) that provides administrative, financial management, and audit reporting relief for recipients and applicants of federal financial assistance directly impacted by COVID-19. CDC can allow recipients to charge costs to the award such as the cancellation of events, travel, or the pausing and restarting of grant-funded activities due to the public health emergency. Recipients are required to maintain records and documentation to substantiate the cost. Please contact your assigned grants management officer and program official for further discussion and guidance. Concurrent with programs, recipients will need to assess the impact on their programmatic activities that were originally funded once normal activities resume as there is no guarantee of additional funding.

**11. Can recipients charge salaries to federal awards when personnel are not able to work due to COVID-19 office closures or similar disruptions?**

On March 19, 2020, the Office of Management and Budget (OMB) issued Memorandum [M-20-17](https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf)   (<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>) that provides administrative, financial management, and audit reporting relief for recipients and applicants of federal financial assistance directly impacted by COVID-19. Recipients may continue to charge salaries and benefits to currently active federal awards consistent with the recipients' policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources. Recipients are required to maintain records and documentation to substantiate the cost, including reference to the recipients' salary policy. Concurrent with programs, recipients will need to assess the impact on their programmatic activities that were originally funded once normal activities resume as there is no guarantee of additional funding.

Page last reviewed: March 23, 2020

# MEDICAID INCREASED FMAP FAQ

## Families First Coronavirus Response Act – Increased FMAP FAQs

On March 18, 2020, the President signed into law H.R. 6021, the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116-127). Section 6008 of the FFCRA provides a temporary 6.2 percentage point increase to each qualifying state and territory's <sup>1</sup> Federal Medical Assistance Percentage (FMAP) under section 1905(b) of the Social Security Act (the Act) effective beginning January 1, 2020 and extending through the last day of the calendar quarter in which the public health emergency declared by the Secretary of Health and Human Services for COVID-19<sup>2</sup>, including any extensions, terminates.

### **A. General Questions**

#### **1. Which states are eligible for the 6.2 percentage point FMAP increase?**

All states and territories are eligible for the increased FMAP, provided they meet the requirements of section 6008(b) and (c) of the Families First Coronavirus Response Act. While CMS has not conducted reviews for state compliance, we believe that all states can take steps to be compliant and earn the enhanced funding, and CMS will provide technical assistance to states on this issue. The specific criteria that states and territories must meet in order to qualify for the increased FMAP is described in section C of this FAQ document (below).

#### **2. Does the 6.2 percentage point FMAP increase apply to all match rates used in determining how much Federal Financial Participation (FFP) states receive for Medicaid expenditures?**

In general, the increased FMAP is available for allowable Medicaid medical assistance expenditures for which federal matching is paid ordinarily at the state-specific FMAP rate defined in the first sentence of section 1905(b) of the Act. The increase does not apply with respect to the following Medicaid expenditures:

- Medicaid administrative expenditures, for which the matching rate is not defined in section 1905(b).
- Adult group expenditures matched at the “newly eligible” FMAP specified in section 1905(y) of the Act.
- Adult group expenditures matched at the “expansion state” FMAP specified in section 1905(z) of the Act.
- Expenditures for family planning services eligible for 90% match as specified in section 1903(a)(5).

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<sup>1</sup> Unless specifically noted, each reference to a state or states in these FAQs includes a reference to the District of Columbia and the territories.

<sup>2</sup> The emergency period is defined in paragraph (1)(B) of section 1135(g) of the Act, as amended by H.R. 6074—The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Pub. L. 116-123). The Secretary’s determination that a public health emergency exists was issued on January 31, 2020 with an effective date of January 27, 2020. The declaration is available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.

- Expenditures for services “received through” an IHS facility (including an IHS facility operated by an Indian tribe or tribal organization), as the 100% match rate for these services is not the same as the state-specific FMAP defined in the first sentence of section 1905(b) to which the 6.2 percentage point FMAP increase applies.
- Expenditures matched at 100% for individuals in Qualifying Individuals programs.
- Health home services under section 1945 of the Act when these are matched at 90% as specified in section 1945(c)(1). After the initial enhanced FMAP period for these services that is described in section 1945(c)(1), they will be matched at the state’s regular FMAP, which might be subject to the 6.2 percentage point increase under section 6008(a).
- Community First Choice (CFC) 1915(k) service expenditures already eligible for a 6 percentage point in Federal match rate increase.
- Any other expenditures not matched at the FMAP determined for each state that is defined in the first sentence of section 1905(b).

### **3. Is the increased FMAP available for Medicaid DSH expenditures?**

Yes, if the expenditures are matched at the 1905(b) FMAP and the state and the expenditures otherwise meet the qualifying requirements (the expenditures were incurred during the applicable time period, the state meets the requirements in section 6008(b) and (c) of the FFCRA).

### **4. Does the 6.2 percentage point FMAP increase apply to Children’s Health Insurance Program expenditures and expenditures for individuals eligible on the basis of breast and cervical cancer that are matched at the “enhanced” FMAP (EFMAP) under section 2105(b) of the Act?**

Not directly. The EFMAP in section 2105(b) of the Act is calculated using the FMAP as defined in the first sentence of section 1905(b) of the Act as a “base.” Therefore, generally, as the 1905(b) FMAP increases for a state, the EFMAP also increases for the state, though not in the exact same amount. Therefore, the EFMAP will increase for states coinciding with the duration of the 6.2 percentage point increase to the FMAP.

Please note that under section 2105(b) of the Act, the EFMAP for CHIP expenditures only is increased by 11.5 percentage points for the Federal Fiscal Year (FY) 2020 (October 1, 2019 through September 30, 2020) with a cap of 100% for this same period. The 100% cap will still apply as the maximum match rate for CHIP expenditures. For FY 2021 and after, the EFMAP under section 2105(b) of the Act is capped at 85%. Optional Breast and Cervical Cancer expenditures are matched at the uninincreased EFMAP (that is, the EFMAP without the 11.5 percentage point increase described above).

Optional Breast and Cervical Cancer expenditures under section 2105(b) of the Act are matched at the uninincreased EFMAP (that is, the EFMAP without the 11.5 percentage point increase for CHIP expenditures described above).

**Example of the Impact of the 6.2 percentage point FMAP Increase on the Section 2105(b) EFMAP Calculation**

	<b>Without</b> 6.2 percentage point FMAP Increase	<b>With</b> 6.2 percentage point FMAP Increase
1905(b) FMAP	50%	56.2%
EFMAP Calculation	$(50\% \times 0.7) + 0.3$	$(56.2\% \times 0.7) + 0.3$
EFMAP (non-CHIP)	65%	69.34%
EFMAP for CHIP (FY 2020)	76.5% (65% + 11.5%)	80.84% (69.34% + 11.5%)

**5. For which period is the FMAP increase available?**

Section 6008(a) of the FFCRA states that the increased FMAP is available for each calendar quarter occurring during the public health emergency. As the public health emergency for COVID-19 was declared by the Secretary of Health and Human Services on January 31, 2020, the increased FMAP is available for qualifying expenditures that were incurred on or after January 1, 2020 and through the end of the quarter in which the public health emergency including any extensions, ends. At the time the public health emergency period for COVID-19 ends, CMS will inform states.

**6. How do states know whether an otherwise qualifying expenditure falls within the period for which the increased FMAP is available?**

States should follow existing federal requirements regarding the applicability of a particular match rate available for a given quarter. For purposes of determining which FMAP applies, expenditures are considered to be incurred based on when the state makes a payment to a provider, not based on the date of service. The quarter in which the State makes a payment is the quarter in which the expenditure will be considered to be incurred, and the FMAP applicable to that quarter is the appropriate FMAP for that claim.

**7. Is the increased FMAP available for services provided under waivers and section 1115 demonstrations?**

Yes, if the expenditures are matched at the FMAP defined in the first sentence of 1905(b) and the state and the expenditures otherwise meet the qualifying requirements in section 6008 of the FFCRA.

**8. Are states required to submit a State Plan Amendment (SPA) to be eligible for the 6.2 percentage point FMAP increase?**

No, states are not required to submit a SPA to be eligible for the FMAP increase. However, only expenditures matched at the FMAP defined in the first sentence of 1905(b) that are incurred by states that meet the qualifying requirements in section 6008 of the Families First Coronavirus Response Act are eligible for the increased FMAP.

## **B. Requirements for States to Receive Increased FMAP**

### **1. What must a state do to receive a 6.2 percentage point temporary increase to the federal medical assistance percentage (FMAP)?**

To qualify for the temporary FMAP increase, states must, through the end of the month when the public health emergency ends:

- a. Maintain eligibility standards, methodologies, or procedures that are no more restrictive than what the state had in place as of January 1, 2020 (maintenance of effort requirement).
- b. Not charge premiums that exceed those that were in place as of January 1, 2020
- c. Cover, without impositions of any cost sharing, testing, services and treatments—including vaccines, specialized equipment, and therapies—related to COVID-19.
- d. Not terminate individuals from Medicaid if such individuals were enrolled in the program as of the date of the beginning of the emergency period, or becomes enrolled during the emergency period, unless the individual voluntarily terminates eligibility or is no longer a resident of the state (continuous coverage requirement).

These requirements became effective on March 18, 2020. More information on these conditions is provided below.

### **2. What is the maintenance of effort (MOE) requirement in the FFCRA? What types of eligibility and enrollment changes can states make to respond to the current emergency and still receive temporary increased FMAP?**

States may not impose eligibility standards, methodologies, or procedures that are more restrictive than those that were in place on January 1, 2020, in order to receive increased FMAP during the emergency period. States may continue to make temporary or permanent eligibility and enrollment changes that are less restrictive during the emergency period, such as lowering premiums, easing burden associated with verification requirements, and streamlining the application process, as permitted by law, including under any applicable federal waiver or modification authorities. CMS is available to provide technical assistance to any state that implemented any such more restrictive standards, methodologies, or procedures between January 1, 2020 and enactment of the FFCRA.

### **3. Can states increase premiums under the state plan (or waiver) after January 1, 2020 and still receive temporary increased FMAP?**

No. A state that increases premiums for any beneficiaries above the amounts in effect on January 1, 2020 is not eligible for the temporary increased FMAP.

**4. Are states required to cover any COVID-related services as a condition of receiving the temporary increased FMAP?**

Yes. States must cover, under the state plan (or waiver), testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies, for any quarter in which the temporary increased FMAP is claimed.

**5. Which items and services must states exempt from cost sharing in order to be eligible for the temporary increased FMAP?**

States may not impose deductibles, copayments, coinsurance or other cost sharing charges for any services described in question C.4., above – i.e., testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies – in the quarter in which the temporary increased FMAP is claimed.

**6. Are states required to provide continuous coverage for all Medicaid beneficiaries through the end of the month in which the emergency period ends?**

Yes. In order to receive the temporary FMAP increase provided under section 6008 of the FFCRA, states must provide continuous coverage, through the end of the month in which the emergency period ends, to all Medicaid beneficiaries who were enrolled in Medicaid on or after March 18, 2020, regardless of any changes in circumstances or redeterminations at scheduled renewals that otherwise would result in termination. States may terminate coverage for individuals who request a voluntary termination of eligibility, or who are no longer considered to be residents of the state.

**7. If a state has already terminated coverage for individuals enrolled as of March 18, 2020, what actions should the state take? Must those individuals have their coverage reinstated?**

To receive the increased FMAP, states may not terminate coverage for any beneficiary enrolled in Medicaid during the emergency period effective March 18, 2020, unless the beneficiary voluntarily requested to be disenrolled, or is no longer a resident of the state. States that want to qualify for the increased FMAP should make a good faith effort to identify and reinstate individuals whose coverage was terminated on or after the date of enactment for reasons other than a voluntary request for termination or ineligibility due to residency. At a minimum, states are expected to inform individuals whose coverage was terminated after March 18, 2020 of their continued eligibility and encourage them to contact the state to reenroll. Where feasible, states should automatically reinstate coverage for individuals terminated after March 18, 2020 and should suspend any terminations already scheduled to occur during the emergency period. Coverage should be reinstated back to the date of termination.

**8. Does continuous coverage for the emergency period apply to individuals who are receiving benefits during a period of presumptive eligibility?**

Individuals who have been determined presumptively eligible for Medicaid have not received a determination of eligibility under the state plan, and are therefore not “enrolled” and subject to the requirements for continuous coverage described under section 6008 of the FFCRA.

**9. Do the requirements to provide continuous coverage during the emergency period apply to individuals who were determined ineligible prior to March 18, 2020, but who continue to receive services pending an appeal?**

Yes. Individuals who continue to receive services pending an appeal of a determination of ineligibility would be considered to be enrolled for benefits, if this was their status as of March 18, 2020 and therefore should not be terminated from enrollment until the end of the month when the emergency period ends.

**10. Do the requirements to provide continuous coverage apply to CHIP?**

No. States do not need to maintain coverage in CHIP in order to receive the temporary increase in the Medicaid federal medical assistance percentage (FMAP) provided under section 6008 of the FFRCA. However, the Maintenance of Effort (MOE) required under section 2105(d)(3) of the Social Security Act continues to apply.

**11. Should states continue to conduct redeterminations and act on reported or identified changes in circumstances during the emergency period?**

The FFCRA does not prohibit a state from conducting regular Medicaid renewals and redeterminations or acting on reported or identified changes in circumstances. States may also continue to conduct periodic data matching between regular beneficiary renewals, consistent with states' verification plans. However, to receive the increased FMAP, states may not terminate coverage for any beneficiary enrolled in Medicaid on or after March 18, 2020, until the end of the month in which the emergency period ends, unless such individual is no longer a resident of the state or requests voluntary termination. This requirement to maintain continued coverage applies to beneficiaries who might otherwise have coverage terminated after a change in circumstances, including individuals who age out of a Medicaid eligibility group during the emergency period, who lose receipt of benefits that may affect their eligibility (e.g., SSI, foster care assistance payments), and whose whereabouts become unknown.

**12. If a state receives information during the emergency period that would make a beneficiary eligible for a different eligibility group, must the state keep the beneficiary enrolled in the group in which he or she is currently enrolled?**

To receive the increased FMAP under the FFCRA, states may not terminate coverage for beneficiaries enrolled in Medicaid on or after March 18, 2020, through the end of the month in which the emergency period ends, unless the beneficiary voluntarily requests termination from the program or is considered to no longer be a resident of the state. Further, while states may increase the level of assistance provided to a beneficiary who experiences a change in circumstances, such as moving the individual to another eligibility group which provides additional benefits, states may not reduce benefits for any beneficiary enrolled in Medicaid on or after March 18, 2020, through the end of the month in which the emergency period ends, and still qualify for increased FMAP.



**13. During the emergency period, should states still terminate Medicaid coverage for deceased individuals?**

Yes. Individuals who are determined to be deceased are no longer residents of the state. States may terminate coverage for deceased individuals and remain eligible for receipt of the increased FMAP. States should communicate this clarification to their managed care plans.

**C. Flow of Federal Funds and State Reporting**

**1. Will CMS be releasing funding all at once or through multiple grant awards?**

We are prioritizing issuing grant awards to states for additional funding associated with the increased FMAP retroactive to January 1, 2020 first. The first set of grant awards will include increased funding for the period January 1, 2020 through March 31, 2020. We will then provide additional funds based upon state budget estimates for the April 1, 2020 through June 30, 2020. As with all Medicaid grant award funding, these funds will be reconciled against claimed and allowable expenditures when states file their quarterly CMS-64 expenditure reports.

**2. When will CMS send the FFP associated with the increased FMAP to states?**

We are currently processing grant awards to fund the increase match for the period beginning January 1, 2020 through March 31, 2020. We expect that states will receive the funds in their Payment Management System (PMS) account no later than Wednesday, March 25, 2020. We intend to issue funding for the increased match associated with the quarter beginning April 1, 2020 as close to April 1, 2020 as possible.

**3. How did CMS calculate the amount of the grant awards associated with the increased FMAP?**

CMS used budget estimates reported and certified by states on the Form CMS-37 in the Medicaid and Children's Health Insurance Program Budget and Expenditure System (MBES/CBES) for the quarter ending March 31, 2020 (Q2 FY 2020) to estimate the additional amount of federal funds that would be due States as a result of the 6.2 percentage point FMAP increase. The amount of the additional grant award that each state receives for Q2 FY 2020 will be equal to the difference between the estimated federal share recalculated for Q2 FY 2020 to include the FMAP 6.2 percentage point increase and the federal share previously reported and certified in MBES/CBES for Q2/FFY 2020 by the state for the Q2 FY 2020 budget submission.

We are working to modify MBES/CBES as soon as possible to reflect each state's increased FMAPs; however, in the meantime, we are providing additional funds to states in estimated amounts described above. Once MBES/CBES is reprogrammed to utilize the increased FMAPs, the system will automatically determine the correct amount of federal funds related to the increased FMAPs, and apply such FMAPs for the actual claimed expenditures that were incurred on or after January 1, 2020, and before the end of the emergency period. Per our standard Medicaid grant award reconciliation process, CMS will reconcile all amounts advanced to the state, including estimated amounts based on the increased FMAP, to actual

Medicaid expenditures reported by the state for the relevant quarter and recover any unexpended amounts or pay any additional amounts due to the state.

**4. The increased FMAP is available for expenditures incurred as early as January 1, 2020. Can states draw all funding associated with the increased FMAP as soon as they receive it?**

If the state meets all applicable requirements and conditions established within section 6008 and other applicable existing federal requirements, it can draw funds associated with allowable Medicaid expenditures that have already been incurred and are eligible for the increased match. A state may not draw funds for expenditures it has not yet incurred, expenditures incurred prior to January 1, 2020, or expenditures that are not otherwise eligible for the increased FMAP.

**5. Will grant awards issued relating to the increased FMAP be subject to adjustment or are they set amounts?**

In calculating grant awards for the increased FMAP associated with the quarter ending March 31, 2020, we used estimated expenditures submitted and certified by states on the Form CMS-37. The final determination of allowability of expenditures eligible for the increased FMAP and any necessary reconciling grant awards will be determined after all the actual expenditures for the quarter have been submitted by the states and reviewed by CMS. At that time, final reconciling grant awards will be issued to reflect the amounts that the states are finally due based on federal requirements, including those specified in the Families First Coronavirus Response Act. Consistent with our existing practice and federal requirements, any overpayment or underpayment will factor into (be offset against or added to) the grant award for the following quarter.

**6. What happens if a state determines that its spending will exceed its budget estimate? Will additional funding be available?**

Consistent with existing practice, states have an opportunity at any time throughout each quarter to request additional funding from CMS as necessary to cover allowable Medicaid administrative and service costs, including those eligible for the 6.2 percentage point increased FMAP. Should any state need additional funds before the end of a quarter, they may request them through a supplemental request to the extent that the state and its expenditures qualify for the increased FMAP and have a permissible source of non-Federal share. CMS will evaluate such requests and issue any appropriate additional supplemental grant awards.

**7. How will CMS expect states to document and differentiate which expenditures they are claiming at the increased FMAP rate and expenditures matched at other rates?**

Consistent with existing requirements, states must document expenditures to ensure a clear audit trail, including by isolating expenditures that are matched at increased FFP rates. We will be performing oversight to ensure that the state expenditures are allowable and accurate, including with respect to the matching rate claimed. We are currently working to modify the Form CMS-64 and Form CMS-37 in the MBES/CBES system to accommodate the changes from the Families First Coronavirus Response Act, including reporting of budget estimates and expenditures eligible for the increase FMAP. We intend to issue further guidance and

offer training to states as soon as possible on reporting budget estimates on the CMS-37 and quarterly expenditures on the Form CMS-64.

**8. Are there special reporting requirements for the Form CMS-64 or Form CMS-37 (i.e., separate lines or a separate report for the increased FMAP)?**

We are currently working to modify the Form CMS-64 and Form CMS-37 in the MBES/CBES system to accommodate the changes from the Families First Coronavirus Response Act, including reporting of budget estimates and expenditures eligible for the increased FMAP. We intend to issue further guidance and offer training to states as soon as possible.

**9. Will CMS expect states to document and differentiate which draws from its Payment Management System (PMS) account are applicable to the increased FMAP rate and which expenditures are matched at other rates? If so, how?**

Consistent with existing requirements, states must document expenditures and draws to ensure a clear audit trail for use of federal funds. We expect states, on a quarterly basis, to provide CMS with a breakout of the total amount of PMS draws by quarter that are related to expenditure eligible for the increase FMAP and the total amount of PMS draws that were *not* for expenditures related to the increased FMAP. CMS expects states to provide this information as soon as possible at the end of every quarter. In line with our current processes, we will continue to reconcile states' PMS subaccounts with actual expenditures once states report them in MBES/CBES and CMS reviews the expenditures for accuracy and allowability. States' total draws in PMS are expected to equal the actual total expenditures reported for such quarter/fiscal year in MBES/CBES.

**10. Does the increased FMAP only pertain to state expenditures or does it also pertain to collections and overpayments?**

All states are responsible for reporting Medicaid collections and overpayments on the CMS-64. States must report overpayments and collections at the same match rate at which the expenditures were originally claimed, including when the original rate incorporated the 6.2 percentage point FMAP increase.

**11. If a state recovers a provider payment that was originally claimed by the state with the 6.2 percentage point increased FMAP, should it return the FFP associated with the recovery at the increased FMAP?**

Yes, recoveries of FFP must be returned at the same match rate at which they were originally claimed. Therefore, if a Medicaid expenditure was claimed using the increased FMAP, the federal share of any recoveries associated with that expenditure would have to be returned using the same increased FMAP.

**D. Requesting Increased FMAP**

**1. To be eligible for the 6.2 percentage point FMAP increase, section 6008(c) of the Families First Coronavirus Response Act provides that states must not require political subdivisions of the state to pay a greater portion of the non-federal share of expenditures required under section 1902(a)(2) of the Act or payments under 1923 of**

**the Act than was required on March 11, 2020. Will CMS require states and territories to demonstrate compliance with this provision prior to receiving the increased FMAP?**

While states are required to ensure compliance with this section, CMS will not require that states submit a demonstration of compliance prior to drawing FFP associated with the increased FMAP. Instead, CMS will require states to attest to compliance. If this attestation is determined to be incorrect such that the state does not satisfy the conditions under section 6008(c) of the Families First Coronavirus Response Act, then the state will be required to return the increased FFP for which it did not qualify to CMS.

**2. Will CMS require that states attest to meeting the requirements of section 6008 of the Families First Coronavirus Response Act when drawing the FFP associated with the increased FMAP?**

Yes. States must attest that they will assure compliance with the requirements in sections 6008(b) and (c) of the Families First Coronavirus Response Act. If this attestation is determined to be incorrect such that the state does not satisfy all applicable conditions under section 6008 of the Families First Coronavirus Response Act, then the state will be required to return the increased FFP for which it did not qualify to CMS.

**3. How will states attest? What should states send in and to whom? Will CMS approve the attestation? May states draw funds before the attestation is approved? Must states attest before each draw down?**

By drawing funds from the increased FMAP account in the Payment Management System (PMS), each state is “attesting” that: it is eligible for the increased FMAP; the expenditures for which it is drawing funds are those for which the increased FMAP is applicable; and that the conditions under which the increased FMAP is available are met. The attestation includes specific agreement with enumerated requirements of sections 6008(b) and (c) of the Families First Coronavirus Response Act. To minimize the need for separate review, avoid state burden, and expedite providing funding to states, CMS has included these requirements as attestations in each grant award letter to the states. The grant award letter indicates that only after the state has assured itself that it meets all of the requirements under which the increased FMAP and associated funds were available, is it free to draw such funds. This process is referred to as a “passive attestation” under which each state did not need to send in a written confirmation that it met the requirements prior to receiving its funds; rather, by simply drawing down the funds the state was attesting that it had carefully considered all attestations and that it met those requirements. If this is determined to be incorrect such that the state does not satisfy all applicable conditions under section 6008 of the Families First Coronavirus Response Act, then the state will be required to return the increased FFP for which it did not qualify to CMS.

**4. Does CMS intend to issue more specific guidance on the requirements relating to political subdivisions in section 6008(c)?**

Section 6008(c) modifies section 1905(cc) of Act by providing that, to be eligible for the increased FMAP under section 6008(a) of the Families First Coronavirus Response Act, states must not require political subdivisions of the state to pay a greater portion of the non-federal share of expenditures required under section 1902(a)(2) of the Act or payments under

1923 of the Act than was required on March 11, 2020. CMS has already issued guidance about section 1905(cc) of the Act, including most recently through State Medicaid Director Letter #10-023 on November 9, 2010. States should refer to this guidance regarding requirements of section 1905(cc). Of note, for increased FMAP available under section 6008 of the Families First Coronavirus Response Act, the reference to “December 31, 2009” in section 1905(cc) of the Act shall be deemed to be a reference to “March 11, 2020.”

## Quick Guide to CDBG Eligible Activities to Support Infectious Disease Response

March 19, 2020

Grantees should coordinate with local health authorities before undertaking any activity to support state or local pandemic response. Grantees may use Community Development Block Grant (CDBG) funds for a range of eligible activities that prevent and respond to the spread of infectious diseases such as the coronavirus disease 2019 (COVID-19).

### Examples of Eligible Activities to Support Infectious Disease Response

<i>For more information, refer to applicable sections of the Housing and Community Development Act of 1974 (for State CDBG Grantees) and CDBG regulations (for Entitlement CDBG grantees).</i>	
<b>Buildings and Improvements, Including Public Facilities</b>	
Acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements. <i>See section 105(a)(2) (42 U.S.C. 5305(a)(2)); 24 CFR 570.201(c).</i>	Construct a facility for testing, diagnosis, or treatment.
	Rehabilitate a community facility to establish an infectious disease treatment clinic.
	Acquire and rehabilitate, or construct, a group living facility that may be used to centralize patients undergoing treatment.
Rehabilitation of buildings and improvements (including interim assistance). <i>See section 105(a)(4) (42 U.S.C. 5305(a)(4)); 24 CFR 570.201(f); 570.202(b).</i>	Rehabilitate a commercial building or closed school building to establish an infectious disease treatment clinic, e.g., by replacing the HVAC system.
	Acquire, and quickly rehabilitate (if necessary) a motel or hotel building to expand capacity of hospitals to accommodate isolation of patients during recovery.
	Make interim improvements to private properties to enable an individual patient to remain quarantined on a temporary basis.
<b>Assistance to Businesses, including Special Economic Development Assistance</b>	
Provision of assistance to private, for-profit entities, when appropriate to carry out an economic development project. <i>See section 105(a)(17) (42 U.S.C. 5305(a)(17)); 24 CFR 570.203(b).</i>	Provide grants or loans to support new businesses or business expansion to create jobs and manufacture medical supplies necessary to respond to infectious disease.
	Avoid job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low- and moderate-income persons.
Provision of assistance to microenterprises. <i>See section 105(a)(22) (42 U.S.C. 5305(a)(22)); 24 CFR 570.201(o).</i>	Provide technical assistance, grants, loans, and other financial assistance to establish, stabilize, and expand microenterprises that provide medical, food delivery, cleaning, and other services to support home health and quarantine.

<b>Public Services (Capped at 15 Percent of the Grant, With Some Exceptions)<sup>1</sup></b>	
Provision of new or quantifiably increased public services.  <i>See section 105(a)(8) (42 U.S.C. 5305(a)(8)); 24 CFR 570.201(e).</i>	Carry out job training to expand the pool of health care workers and technicians that are available to treat disease within a community.
	Provide testing, diagnosis or other services at a fixed or mobile location.
	Increase the capacity and availability of targeted health services for infectious disease response within existing health facilities.
	Provide equipment, supplies, and materials necessary to carry-out a public service.
	Deliver meals on wheels to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities.
<b>Planning, Capacity Building, and Technical Assistance</b>	
States only: Planning grants and planning only grants.  <i>See section 105(a)(12).</i>	Grant funds to units of general local government may be used for planning activities in conjunction with an activity, they may also be used for planning only as an activity. These activities must meet or demonstrate that they would meet a national objective. These activities are subject to the State's 20 percent administration, planning and technical assistance cap.
States only: use a part of to support TA and capacity building.  <i>See section 106(d)(5) (42 U.S.C. 5306(d)(5)).</i>	Grant funds to units of general local government to hire technical assistance providers to deliver CDBG training to new subrecipients and local government departments that are administering CDBG funds for the first time to assist with infectious disease response. This activity is subject to the State's 3 percent administration, planning and technical assistance cap.
Entitlement only. data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans. <i>See 24 CFR 570.205.</i>	Gather data and develop non-project specific emergency infectious disease response plans.

### Planning Considerations

Infectious disease response conditions rapidly evolve and may require changes to the planned use of funds:

- CDBG grantees must amend their Consolidated Annual Action Plan when there is a change to the allocation priorities or method of distribution of funds; an addition of an activity not described in the plan; or a change to the purpose, scope, location, or beneficiaries of an activity (24 CFR 91.505).
- If the changes meet the criteria for a “substantial amendment” in the grantee’s citizen participation plan, the grantee must follow its citizen participation process for amendments (24 CFR 91.105 and 91.115).

### Resources

The Department has technical assistance providers that may be available to assist grantees in their implementation of CDBG Funds for activities to prevent or respond to the spread of infectious disease. Please contact your local CPD Field Office Director to request technical assistance from HUD staff or a TA provider.

- Submit your questions to: [CPDQuestionsAnswered@hud.gov](mailto:CPDQuestionsAnswered@hud.gov)
- COVID-19 (“Coronavirus”) Information and Resources: <https://www.hud.gov/coronavirus>
- CPD Program Guidance and Training: <https://www.hudexchange.info/program-support/>

<sup>1</sup> Section 105(a)(8) of the Housing and Community Development Act of 1974, provides a different percentage cap for some grantees.



## Number 1: CDBG COVID-19 Question and Answer

### Using CDBG Funds for Staff Costs and Unused and Partially Utilized Space

March 25, 2020

#### Staff Costs

- Q. Are staff costs of CDBG program administration and eligible activities allowable if the staff person is on leave due to the closure of the grantee or subrecipient's offices in response to COVID-19?
- A. Yes. If staff costs meet the program administration requirements of 24 CFR 570.206 or are related to carrying out activities eligible under § 570.201 through § 570.204, the cost of fringe benefits, as provided at 2 CFR 200.431(b), in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:
- (1) They are provided under established written leave policies;
  - (2) The costs are equitably allocated to all related activities, including Federal awards; and,
  - (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the grantee/subrecipient or specified grouping of employees.

Please note, however, such charges are subject to regulatory or statutory limits on certain categories of costs (e.g., the 20% limit on CDBG planning and administrative costs).

#### Unused and Partially Utilized Space Costs

- Q. What about the costs of unused and partially utilized space, when space used by grantees/subrecipients in carrying out activities with CDBG funds is no longer used or is no longer used fully in response to COVID-19, are costs such as maintenance, repair, rent, and other related costs, e.g., insurance, interest, and depreciation allowable?
- A. Yes, subject to program restrictions and the regulations at 2 CFR 200.446 *Idle facilities and idle capacity*. While costs for unused space (idle facilities) are usually unallowable, §200.446(b)(2) permits exceptions when the space (facilities) are idle for causes which could not have been reasonably foreseen. Clearly, the COVID-19 situation falls within that exception. Under this exception, "...costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities."

Grantees and subrecipients should note, however, that program regulations may prohibit certain costs referenced in the question. For example, 24 CFR 570.207(b)(2)(i) prohibits use of CDBG funds for maintenance and repair of publicly owned facilities and improvements.

As to partially utilized space (idle capacity), §200.446(c) provides that:

"The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by

use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices....”

Accordingly, costs of idle capacity are allowable, subject to the provisos in §200.446(c) and to any program regulatory restrictions noted above.

## Resources

The Department has technical assistance providers that may be available to assist grantees in their implementation of CDBG Funds for activities to prevent or respond to the spread of infectious disease. Please contact your local CPD Field Office Director to request technical assistance from HUD staff or a TA provider.

- Submit your questions to: [CPDQuestionsAnswered@hud.gov](mailto:CPDQuestionsAnswered@hud.gov)
- COVID-19 (“Coronavirus”) Information and Resources: <https://www.hud.gov/coronavirus>
- CPD Program Guidance and Training: <https://www.hudexchange.info/program-support/>

## CDBG-DR COVID-19 Fact Sheet

March 31, 2020

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On March 13, 2020, the President declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”) and he has since provided major disaster declarations for certain areas pursuant to section 401 of the Stafford Act. This fact sheet provides information to Community Development Block Grant Disaster Recovery (CDBG-DR), CDBG National Disaster Resilience (CDBG-NDR), and CDBG Mitigation (CDBG-MIT) grantees on flexibilities HUD is granting on timelines, eligible activities, and citizen participation as communities work to prevent and respond to the spread of COVID-19.

### FAQs

#### Use of CDBG-DR Grant Funds and Program Income for COVID-19 Recovery

##### **Q1: Can a CDBG-DR grantee use its allocation of CDBG-DR funds to address the COVID-19 pandemic?**

A: No. CDBG-DR appropriations typically provide funds to grantees for necessary expenses related to disaster relief, long term recovery, restoration of infrastructure and housing, and economic revitalization, and more recently mitigation, in the most impacted and distressed areas resulting from a major disaster (disasters declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)). CDBG-DR appropriations also place limitations on the award and use of CDBG-DR funds by directing funds to particular recipients and geographic areas in response to certain eligible events. Using funds for disasters that are outside of the years or events cited in the respective appropriations acts is prohibited. Currently, there are no CDBG-DR appropriations or allocations of CDBG-DR funds to address the COVID-19 national emergency or disaster.

##### **Q2: Can a CDBG-DR grantee use program income generated by its CDBG-DR activities for the COVID-19 pandemic?**

A: Generally, yes. *Federal Register* notices published for CDBG-DR grants generally allow CDBG-DR grantees to transfer program income at any point to their annual CDBG program. CDBG-DR grantees identified as “State grantees” in applicable *Federal Register* notices, may also transfer program income prior to closeout to a unit of general local government or Indian tribe within their geographic area. When CDBG-DR program income is used for CDBG activities, the waivers and alternative requirements applicable to the CDBG-DR grant no longer apply. Instead, the funds are subject to the requirements for the use of CDBG funds under the regular, applicable CDBG program rules. Grantees should consult the applicable *Federal Register* notices for any variations in the use of program income.

## Extensions Issued on Required Grantee Submissions

### **Q3: Will submission dates for CDBG-MIT action plans and Financial Management and Grant Compliance Certifications be extended due to COVID-19 pandemic?**

A: Yes. For grantees that received allocations under the CDBG-MIT *Federal Register* notices (84 FR 45838 (Main Notice), 84 FR 47528 (USVI), and 85 FR 4676 (PR)), HUD has established the necessary flexibility in those notices to authorize grantees to submit a request for an extension of the action plan submission and certification deadlines. HUD has previously approved several grantee extensions of these deadlines.

HUD is now authorizing a 90-day extension of the established deadline for all CDBG-MIT action plan and Financial Management and Grant Compliance Certification submissions due to the COVID-19 pandemic. If a grantee has received a prior extension approval from HUD, this 90-day extension will be added to the approved extended deadline. For example, if a CDBG-MIT grantee had requested an extension to May 4, 2020 for its action plan submittal and was given a due date of April 4, 2020 for its certifications, those deadlines are now extended an additional 90 days. The new deadlines under this example would be August 2, 2020 for the action plan and July 3, 2020 for the certifications.

Grantees should consult the applicable *Federal Register* notice for their specific action plan submission dates or HUD approval letters if extensions were granted.

### **Q4: Will submission dates for CDBG-DR action plans and Financial Management and Grant Compliance Certifications be extended due to the COVID-19 pandemic?**

A: Yes. For grantees who received allocations for 2018 or 2019 disasters, or for 2017 unmet infrastructure needs under the January 27, 2020 *Federal Register* notice (85 FR 4681), HUD is granting additional flexibility.

The notice states that each grantee must submit the Financial Management and Grant Compliance certifications and Pre-Award Implementation Plan pursuant to section VI.A.I of the February 9, 2018 notice not later than 60 days after the applicability date of the notice.

HUD is authorizing a 90-day extension for action plan and Financial Management and Grant Compliance Certification submission deadlines due to the COVID-19 pandemic. Given the applicability date of the notice, the new deadline for action plan submission is August 31, 2020 and new deadline for certifications is July 2, 2020. The new deadline for substantial action plan amendments for 2017 unmet infrastructure needs is August 1, 2020.

### **Q5: Will there be an extension for the submission of the CDBG-DR or National Disaster Resilience (NDR) Grantee's Quarterly Performance Reports (QPR's)?**

A: Yes. HUD is authorizing a 90-day extension for all CDBG-DR and NDR grantees QPR submissions due to the COVID-19 pandemic. Each grantee should notify the assigned CPD Specialist if they intend to submit the QPR later than the deadline listed in the Disaster Recovery Grant Reporting (DRGR) system.

**Q6: Some CDBG-DR grantees are required to upload supporting documentation for each DRGR voucher and all DRGR grantees are required to upload supporting documentation for drawdowns that exceed the drawdown threshold. How can grantees subject to this requirement, with staff working outside of their normal office location because of COVID-19, continue to access funds if they do not have access to the supporting documents?**

A: CDBG-DR grantees who are required to submit supporting documentation for vouchers in DRGR, but do not have ready access to the required documents due to the COVID-19 pandemic, should notify their CPD Specialist as soon as possible and request additional time to provide the supporting documentation. HUD is prepared to allow these grantees to provide the documentation within a reasonable time period to complete the draw transaction. However, grantees are reminded that adequate source documentation is a requirement for costs to be allowable under a federal award (2 CFR 200.403).

#### Request for Release of Funds (RROFs)

**Q7: Can CDBG-DR grantees continue to submit Request for Release of Funds (RROFs) to HUD to receive Authorization to Use Grant Funds (AUGF)?**

A: Yes. Grantees should submit all applicable documentation to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov) and the HUD CPD Specialist. Grantees may submit the RROF to HUD via email in two ways:

- If the grantee has access to a printer and scanner (or scanner via a smartphone app), the grantee may submit the paper signature by the Certifying Officer on the emailed version of the RROF form; or
- Grantees may submit an E-signature by the Certifying Officer on a PDF version of the RROF form. Grantees may need to work with their local IT departments to create and implement an e-signature.

HUD will issue the AUGF via email to the grantee.

#### Public Hearings for CDBG-MIT grantees

**Q8: Is there guidance from HUD on changes to public participation/hearing requirements? May grantees suspend the onsite public participation hearings for an action plan?**

A: Yes. For CDBG-MIT grantees only, if a grantee is concerned about significant public health risks that may result from holding in-person public hearings, CPD is interpreting public hearings in the context of the CDBG-MIT *Federal Register* notice to include virtual public hearings (alone, or in concert with an in-person hearing) if it allows questions in real time, with answers coming directly from the elected representatives to all “attendees.” HUD understands the exigencies of a public health challenge and will work with grantees who make the effort to comply with citizen participation requirements and documents their efforts.

Whether hearings are in-person or virtual, a grantee must take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The grantee must provide appropriate auxiliary aides and services that are necessary to afford individuals with hearing and vision impairments an equal opportunity to access and participate in such hearings. These may include effective methods that make aurally delivered information available to individuals who are deaf or hard of hearing, and visually delivered materials available to individuals who are blind or have low vision. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

For virtual hearings, such steps will include ensuring that information is provided on an accessible website, that e-mails and other digital notifications are accessible, and that the application or platform used to host the hearing must also be accessible. Additional services such as audio description or captioning may also be needed to provide effective communication in a digital context. Helpful guidelines for ensuring the accessibility of web-based and digital materials are available through the World Wide Web Consortium's Web Accessibility Initiative at <https://www.w3.org/WAI/>. Examples of auxiliary aids and services that may be necessary when conducting hearings online can be found at 28 C.F.R. § 35.104. If no method of conducting a virtual hearing is available that appropriately accommodates an individual's disability, the grantee may not hold against the individual his or her inability to participate in the hearing, and an in person hearing may be scheduled for a later date.

The grantee must also take reasonable steps to provide meaningful access to persons with limited English proficiency consistent with Title VI of the Civil Rights Act and *Lau v. Nichols*, 414 US 563 (1974). To ascertain its obligations, the grantee should conduct the four-factor analysis set forth in [HUD's LEP guidance](#), which may be covered by the grantee's Language Assistance Plan, recognizing that the use of the internet to conduct such a hearing may change the analysis. For virtual or online hearings, such services may also include translation of documents and captioning or interpretation in the appropriate language(s). More information on the four-factor analysis and other requirements can be found in [HUD's LEP guidance](#).



## **COVID-19**

### **Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Meal Delivery Using Existing Authority**

#### **Question and Answer**

#### **1. Can schools that have been approved for non-congregate feeding through SFSP or SSO deliver meals directly to students' homes?**

Yes. If the School Food Authority (SFA) determines there is a need and it is logistically feasible to deliver meals directly to homes, it may do so with State agency approval, adherence to all federal confidentiality requirements, and with all necessary Federal waiver approvals (including an approval for non-congregate feeding). Delivery could be completed by mail or delivery service, or hand-delivered by school staff, volunteers, community organizations, or others. This option is only available to SFA sponsors of school sites due to student confidentiality and logistical requirements. Schools electing to deliver meals may serve only children who are in area eligible locations or who are eligible for free or reduced price meals, as discussed in question 3. Depending on the distribution approach, the State agency may need to request and be approved for a waiver from USDA for time restrictions for meal service under regulations at 7 CFR 225.16(c)(1) and (2), as discussed in question 5. In addition, requirements to establish meal service times at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A), must be met. An SFA's delivery plan with designated times for distribution, when approved by the State agency, would fulfill the requirements to establish meal service times.

#### **2. What funding is available for meal delivery?**

There is no additional reimbursement for home delivery or mobile meals delivery, but related expenses, such as postage or delivery service fees, would be considered an allowable cost under the SFSP or SSO. Delivery costs could also be paid with non-program funds such as State or local funds, or private donations.

#### **3. Who is eligible to receive home-delivered meals under SFSP and SSO?**

Schools operating an open SFSP or SSO site in an area eligible location may deliver meals to all children in their eligible area. Schools operating a closed-enrolled site may enroll children who

are certified as eligible for free or reduced price meals, and deliver meals only to the enrolled, eligible children. It is the responsibility of the school to confirm the eligibility of each participating child. All children attending Provision 2, Provision 3, or Community Eligibility Provision (CEP) schools are considered eligible for delivered meals.

#### **4. What are the requirements for initiating home meal delivery for a household?**

Schools must first obtain written consent from households of eligible children (this could include email or other electronic means) that the household wants to receive delivered meals. In addition, schools should confirm the household's current contact information and the number of eligible children in the household to ensure the correct number of meals are delivered to the correct location.

It is critical that schools protect the confidentiality of students and their households throughout this process. The National School Lunch Act (NSLA) and the Family Educational Rights and Privacy Act (FERPA) do not authorize release of household contact information for children without first obtaining the written consent of the child's parent or guardian. The school must be the entity that makes the first contact about meal delivery with the households of eligible children, and must notify the household if contact information will be shared with an external organization, for example, a local non-profit that will provide meal delivery. Once the school receives written consent from the parent or guardian to release contact information, the schools may share the information with other organizations involved with meal delivery. If the school is using a private vendor, then under the regulations implementing the NSLA, they must have a memorandum of understanding (MOU) with the vendor concerning the confidentiality requirements. The MOU should include information such as what will be disclosed, how the information will be used, how the information will be protected from unauthorized uses and disclosures, and penalties for unauthorized disclosure. For further requirements, see 7 CFR 225.15(k)(1)-(2). The school must ensure data is handled appropriately at all times and by all organizations involved with meal delivery to safeguard household confidentiality.

#### **5. How many home-delivered meals per child may be delivered at once?**

The maximum number of meals that may be offered each child remains the same as under SFSP or SSO: up to two meals, or one meal and one snack, per child, per day, in any combination except lunch and supper. The State agency may approve a distribution approach that includes meals for multiple days, up to one week at a time. The State agency should consider the expected duration of the school closure and the capacity of the SFA to execute such an approach effectively, including meeting State or local food safety requirements. In order to approve an alternative distribution approach, the State agency must request and be approved for a waiver from USDA for time restrictions for meal service, under regulations at 7 CFR 225.16(c)(1) and (2). In addition, requirements to establish meal service times at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A), must be met. An SFA's delivery plan with designated times for distribution, when approved by the State agency, would fulfill the requirements to establish meal service times.

#### **6. Do home-delivered meals need to be shelf-stable?**



No. The type of meal offered will depend on the resources and capacity of the site. Those that are able to prepare ready-to-eat meals and have the capacity to deliver meals daily in a way that meets State or local food safety requirements may do so. Home-delivered meals still have to meet all meal pattern requirements of the SFSP or SSO.

**7. Does the child need to be present for home meal delivery?**

No. As long as the school has obtained the household's written consent to deliver meals and has verified the current address, the student does not need to be present at the time of delivery. If the meals are shelf-stable, no one need be present, as long as the address has been verified. Please consider state and local food safety requirements and best practices.

**8. If a household has children in multiple schools, can the schools coordinate to provide one home delivery for all children in the household?**

Yes. To the extent feasible, SFAs or schools are encouraged to coordinate their deliveries to make best use of their resources.

**Meals Offered during Distance Learning**

**9. What options do schools have if the school facilities are closed but they continue to offer online learning?**

If school buildings are closed unexpectedly during the school year due to reasons provided in 42 U.S.C. 1761(c)(1), USDA considers this an unanticipated school closure. Even if virtual learning is provided, if the building is closed and students cannot attend their physical school location for classes, SFAs and community organizations (COs) may operate SFSP and SSO programs as permitted under program requirements. SFSP and SSO open sites must meet area eligibility criteria, i.e., be located in an area where at least 50 percent of the children are low income. For sites that are not area eligible, the SFA or CO may operate a closed-enrolled site, basing the site eligibility on the percentage of enrolled children being eligible for free and reduced price meals.

If an SFA is considering school to be in session and wishes to continue offering National School Lunch Program (NSLP) and School Breakfast Program (SBP) during such building closures, the SFA may request an NSLP and SBP waiver of section 4(b) of the NSLA, which would allow schools to offer non-congregate meals when school buildings are closed, but children continue to attend classes online. In this situation, schools would continue to claim and be reimbursed for meals based on the eligibility status of the individual student. All other NSLP and SBP requirements would apply; waiver and exception requests would be considered.

For example, depending on the distribution approach, the State agency may need to request and be approved for a waiver from USDA for time restrictions for meal service under regulations at 7 CFR 225.16(c)(1) and (2), as discussed in question 5. In addition, requirements to establish meal service times at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A), must be met. An SFA's delivery plan

with designated times for distribution, when approved by the State agency, would fulfill the requirements to establish meal service times.

### **Meals Served During Scheduled School Breaks**

**10. If a scheduled spring break was postponed or cancelled due to COVID-19, may meals served while schools were closed be claimed under SFSP/SSO, provided the school had an approved unanticipated school closure waiver?**

Yes, in the case of school closures due to COVID-19, FNS can allow SFSP/SSO sponsors to claim Federal reimbursement for meals served during scheduled spring breaks that were cancelled or postponed due to the unforeseen public health emergency.

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