

FEMA Region VIII Policy Guidance: FEMA Purchase and Distribution of Food Eligibility

The purpose of this document is to provide clarification to Region VIII states on the implementation of FEMA [Policy](#) FP 104-010-03: Coronavirus (COVID-19) Pandemic: Purchase and Distribution of Food Eligible for Public Assistance (PA).

Due to the impact of the COVID-19 pandemic, it may be necessary as an emergency protective measure to provide food to meet the immediate needs of those who do not have access to food and to protect the public from the spread of the virus. On April 11, 2020, FEMA issued [policy](#) that addresses the purchase and distribution of food eligible for Public Assistance funding under emergency and major disaster declarations.

Emergency protective measures necessary to save lives and protect public health and safety, including the purchase and distribution of food, may be reimbursed under the PA program.

Additional information can be found in the complete [policy](#).

1. Legal Responsibility:

- A. As noted in the [policy](#), a State, Local, Tribal or Territorial (SLTT) government may enter into formal agreements or contracts with private organizations, including private nonprofit organizations such as food banks, to purchase and distribute food when necessary as an emergency protective measure in response to the COVID-19 pandemic. In these cases, Public Assistance funding is provided to the legally responsible SLTT government, which would then reimburse the private organization for services under the agreement or contract.
 - i. Prior approval of these agreements by FEMA is not required. However, FEMA Region VIII can provide technical assistance in the development of the aforementioned agreements or contracts.

2. Work Eligibility:

- A. As noted in the [policy](#), eligible work related to the purchase and distribution of food in response to the COVID-19 pandemic includes:
 - i. Purchasing, packaging, and/or preparing food, including food commodities, fresh foods, shelf-stable food products, and prepared meals;
 - ii. Delivering food, including hot and cold meals if necessary, to distribution points and/or individuals, when conditions constitute a level of severity that food is not easily accessible for purchase; and
 - iii. Leasing distribution and storage space, vehicles, and necessary equipment.
- B. All work must be adequately documented and comply with all Public Assistance program requirements. In addition, all work, if not carried out directly by the legally responsible applicant, must be addressed in any agreement or contract with private organizations to be eligible for reimbursement.

3. Cost Eligibility:

- A. As noted in the [policy](#), all claimed costs must be necessary and reasonable in order to respond to the COVID-19 Public Health Emergency and are subject to standard program eligibility and other Federal requirements, including the prevailing cost-share for the respective declaration.
 - a. All costs, if not incurred directly by the legally responsible applicant, must be addressed in any agreement or contract with private organizations to be eligible for reimbursement.
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4. Procurement:

- A. When procuring goods or services under a financial assistance award, a state entity must:
 - i. Follow the same policies and procedures it uses for procurements from its non-federal funds;
 - ii. Comply with 2 C.F.R. § 200.322 (Procurement of Recovered Materials); and Ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.326 ([Contract Provisions](#))
 - B. The federal procurement under grant standards applicable to non-state entities when procuring goods or services under an award are set forth in 2 C.F.R. §§ 200.318-326. Non-state entities must follow the same policies and procedures it uses for procurements from its non-federal funds so long as it does not conflict with Federal or state requirements. In the event of a conflict non-state entities should follow the stricter standard.
 - C. FEMA has issued guidance that, due to the federal Public Health Emergency declaration for the COVID pandemic, emergency and exigent circumstances currently exist, and FEMA grant applicants may utilize non-competitively procured contracts.
 - D. FEMA is waiving the procurement requirements contained in 2 C.F.R. § 200.319(b) regarding geographical preferences and 2 C.F.R. § 200.321 regarding contracting small and minority businesses, women's business enterprises, and labor surplus area firms for non-State entities.
 - i. These waivers apply only to local governments and PNP's seeking Federal financial assistance (reimbursement) for costs incurred under their procurements. These waivers are only in effect for a 90 day period beginning March 27, 2020.
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5. Timelines:

- A. Funding may be provided for an initial 30 day period.
 - a. This 30 day period begins from the date that costs are incurred under this policy.
 - B. SLTT governments may request a 30-day time extension from the Regional Administrator (RA) with documentation showing continued need.
 - a. Requests for extension can be routed through the Public Assistance Group Supervisor for your Disaster.
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6. Duplication of Benefits:

- A. Pursuant to Section 312 of the Stafford Act, FEMA is prohibited from providing financial assistance where such assistance would duplicate funding available from another program, insurance, or any other source for the same costs.
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- a. Funding provided for activities where it is later determined that financial assistance was available from another source is subject to de-obligation.
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7. Documentation Requirements:

- A. Applicants are required to submit documentation necessary to substantiate the eligibility of all work and costs. Applicants should be prepared to provide documentation substantiating the need to purchase and distribute food in response to the COVID-19. Indicators of this need should include:
 - i. Reduced mobility of people in need due to government-imposed restrictions, including “stay-at-home” orders, which prevent certain populations from accessing food;
 - ii. Marked increase or atypical demand for feeding resources; or
 - iii. Disruptions to the typical food supply chain within a given jurisdiction.
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8. Project Processing:

Projects can be processed in one of the three project types listed below:

- A. Expedited Project: intended to provide a portion of funding sooner in the process of disaster operations. To maximize reimbursement, additional amendments to projects will be needed to justify full extent of expenses reimbursed.
 - a. Available for Emergency Work (COVID-19’s emergency protective measures);
 - b. Defined scope of eligible work;
 - c. Limited to a defined operational period (30 – 60 days);
 - d. Based on an Applicant-provided estimate for eligible work;
 - e. Obligated at 50% of estimate, at the established federal cost share (75%)
 - B. Standard Lane Project (work to be completed): provides funding based on estimated costs. This cost estimate could be for the initial 30 day period (not limited to a defined operational period) and based on the terms identified in a properly executed contract or agreement. Full amount obligated, at the established cost share (75%). Eligibility of all costs and work will be reviewed at project closeout.
 - C. Completed Lane Project (work completed): provides funding based on actual incurred and documented costs. Project written and funding provided when all work is complete. Eligibility of all costs and work will be reviewed when project is written.
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