

rates as such rates include cost components, such as profit, that are above and beyond what is necessary to operate and maintain force account equipment.

IV. Leased Equipment

When the Applicant leases equipment, FEMA provides PA funding based on the terms of the lease. Leasing costs are eligible if:

- The Applicant performed an analysis of the cost of leasing versus purchasing the equipment;¹³⁶ and
- The total leasing costs do not exceed the cost of purchasing and maintaining equipment during the life of the eligible project.

If the leasing costs exceed the cost of purchasing and maintaining the equipment, FEMA determines the amount of eligible costs based on an evaluation of the reasonableness of the costs claimed, including whether the Applicant acted with prudence under the circumstances at the time it leased the equipment.

If the Applicant has a lease-purchase agreement and obtains ownership during completion of eligible work, FEMA provides PA funding for the equipment use based on the hourly equipment rate, as described in [Chapter 6:III. Applicant-Owned Equipment and Purchased Equipment](#).

If the Applicant has a lease-purchase agreement and completes the eligible work prior to obtaining ownership, FEMA provides PA funding based on the cost to lease the equipment.

The Applicant needs to submit the following to support leased equipment costs claimed (not an all-inclusive list):

- Lease agreements (required);
- Invoices or receipts (required);
- Locations and days used (required);
- Hours used (required if lease agreement charges hourly rates); and
- Amount of fuel used, if not included in rental cost (required)

V. Supplies

The cost of supplies, including materials, 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.

The Applicant must track items taken from stock with inventory withdrawal and usage records.

FEMA provides PA funding for these items based on invoices, if available. If invoices are not available for items used from stock, FEMA provides PA funding based on the Applicant's established method of pricing inventory.¹³⁷ If the Applicant does not have an established method, FEMA provides PA funding based on historical data or prices from area vendors.

¹³⁶ 2 C.F.R. § 200.318(d).

¹³⁷ 2 C.F.R. § 200.453(b).

FEMA consults with the U.S. Department of Homeland Security Office of Inspector General Emergency Management Oversight Team in cases where it has difficulty determining a reasonable value.

The Applicant must submit the following to support costs claimed for supplies (not an all-inclusive list):

Supplies from Stock:

- Cost documentation such as original invoices or other historical cost records (required);
- Inventory records (required);
- Type of supplies and quantities used (required – should include support documentation such as daily logs); and
- Location used (required)

Purchased Supplies:

- Receipts or invoices (required);
- Quantities used (required); and
- Justification (required if supplies were not used)

VI. Disposition of Purchased Equipment and Supplies

The discussion below describes disposition requirements when purchased equipment or supplies (including materials) are no longer needed for federally funded projects.

In the context of disposition, equipment is any tangible personal property (including information technology systems) having a useful life of more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the Applicant for financial statement purposes, or \$5,000.¹³⁸ Tangible personal property that does not fall under this definition of equipment is a supply.¹³⁹



Terminology

Personal property means property other than real property.

Real property means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

A. Disposition of Purchased Equipment

In accordance with Federal regulations, State and Territorial government Applicants dispose of equipment in accordance with State and Territorial laws and procedures.¹⁴⁰

When equipment purchased with PA funding are no longer needed for response to or recovery from the incident, Tribal and local governments and PNP Applicants may use the items for other federally funded programs or projects.¹⁴¹

¹³⁸ 2 C.F.R. § 200.33.

¹³⁹ 2 C.F.R. § 200.94.

¹⁴⁰ 2 C.F.R. § 200.313(b).

¹⁴¹ 2 C.F.R. § 200.313(c).

When an individual item of equipment is no longer needed for federally funded programs or projects, Tribal and local governments and PNP Applicants must calculate the current fair market value of the individual item of equipment. The Applicant must provide the current fair market value for items that have a current fair market value of \$5,000 or more. FEMA reduces eligible funding by this amount.¹⁴² If the individual item of equipment has a current fair market value less than \$5,000, FEMA does not reduce the eligible funding.¹⁴³



Terminology

Fair market value is either the selling price or the advertised price for a similar item in a competitive market.

Tribal and local governments and PNP Applicants must comply with all disposition requirements described in 2 C.F.R. 200.313(e), *Disposition*.

B. Disposition of Purchased Supplies

When supplies are no longer needed for federally funded programs or projects, all Applicants, including State and Territorial government Applicants, must calculate the current fair market value of any unused residual supplies (including materials) that FEMA funded for any of its projects and determine the aggregate total.

The Applicant must provide the current fair market value if the aggregate total of unused residual supplies is greater than \$5,000. FEMA reduces eligible funding by this amount.¹⁴⁴ If the aggregate total of unused residual supplies is less than \$5,000, FEMA does not reduce the eligible funding.

VII. Disposition of Real Property

If the Applicant acquires or improves real property with PA funds, disposition and reporting requirements apply when acquired or improved real property is no longer needed for the originally authorized purpose.¹⁴⁵ The PA Division at FEMA Headquarters provides disposition instructions.¹⁴⁶

VIII. Procurement and Contracting Requirements

FEMA provides PA funding for contract costs based on the terms of the contract if the Applicant meets Federal procurement and contracting requirements. Federal procurement and contracting requirements for State and Territorial government agencies are different than those for Tribal and local government agencies and PNPs. This section provides information on Federal procurement and contracting requirements.

FEMA PA staff coordinate with FEMA's Office of Chief Counsel when evaluating whether the Applicant complied with Federal procurement requirements. In the case of noncompliance, FEMA applies an appropriate remedy in accordance with its authorities.¹⁴⁷ FEMA has determined an appropriate remedy under these circumstances is to either deny all costs

¹⁴² 2 C.F.R. § 200.313(e)(2).

¹⁴³ 2 C.F.R. § 200.313(e)(1).

¹⁴⁴ 2 C.F.R. § 200.314(a).

¹⁴⁵ 2 C.F.R. §§ 200.311 and 200.329.

¹⁴⁶ 2 C.F.R. § 200.311(c). Recipients and Applicants must obtain specific disposition instructions from FEMA.

¹⁴⁷ 2 C.F.R. § 200.338.

associated with the contract or, if sufficient information is provided to substantiate a reasonable amount for the eligible work completed, FEMA may reimburse the portion of the costs it determines are reasonable and allowable based on all available information and documentation provided. In addition to monetary remedies, FEMA may also take non-monetary actions against the Applicant as authorized by 2 C.F.R. §§ 200.207 and 200.338.

FEMA's *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)* provides additional details regarding Federal procurement and contracting requirements.¹⁴⁸

A. Procurement and Contracting Requirements for State and Territorial Government Entities

Applicants must comply with Federal procurement requirements as a condition of receiving PA funding for contract costs for eligible work.

1. Procurement

State and Territorial government Applicants¹⁴⁹ must comply with Federal procurement procedures at 2 C.F.R. § 200.317, which include:

- Following the same policies and procedures they would use for procurements with non-Federal funds; and
- Complying with the Environmental Protection Agency (EPA) guidelines in 2 C.F.R. § 200.322, Procurement of recovered materials.

FEMA does not typically review State or Territorial procurement policies or procedures. In certain circumstances, FEMA may review State or Territorial procurement policies or procedures or request that a State or Territorial attorney certify in writing whether the Applicant complied with the State's or Territorial's procurement policies and procedures.

2. Contracting

State and Territorial government Applicants must include required provisions detailed in 2 C.F.R. § 200.326 in all contracts awarded.¹⁵⁰ Some provisions are based on sound contracting practices while others are required by Federal law, EO, and regulations. Some provisions do not apply under the PA Program (e.g. Davis Bacon Act¹⁵¹ and Rights to Inventions Clause) while others require verbatim language.

Although time and material (T&M) contracts without a ceiling price and cost-plus-percentage-of-cost or percentage-of-construction contracts may be allowed under State or Territorial government standards, the use of these contracts has a high risk of noncompliance with the requirement that all costs be reasonable.¹⁵²

¹⁴⁸ www.fema.gov/media-library/assets/documents/96773.

¹⁴⁹ See [Chapter 3:VI.A. State and Territorial Governments](#) for a description of which Applicants are State or Territorial government entities.

¹⁵⁰ 2 C.F.R. § 200.326.

¹⁵¹ The Davis Bacon Act requires "prevailing wage" payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labor. If the Applicant incorporates prevailing wage rates as part of its normal practice for all contracts regardless of the funding source, then those rates are eligible.

¹⁵² 2 C.F.R. § 200.403(a).

B. Procurement and Contracting Requirements for Tribal and Local Government Agencies and Private Nonprofits

Tribal and local governments, including Tribal Recipients, and PNPs¹⁵³ must comply with:

- Their own documented procurement procedures;
- Applicable SLTT government laws and regulations; and
- Applicable Federal laws and regulations.¹⁵⁴

If a Federal requirement is different than the SLTT requirement, or the Applicant's own requirements, it must use the more restrictive requirement. Additionally, Territorial governments should consult their legal counsel when a project involves a public building or public works facility as the Buy American Act may apply to the procurement process.

1. Pre-procurement Considerations

Tribal and local governments and PNPs must:

- Establish or update written procurement procedures that reflect applicable SLTT laws and regulations;¹⁵⁵ and
- Maintain required written standards of conduct covering conflicts of interest and governing the performance of employees who engage in the selection, award, and administration of contracts.¹⁵⁶

Tribal and local governments and PNPs should also create a prequalified list of responsible contractors identified to possess the qualifications and technical abilities to satisfy the Applicant's potential requirement.¹⁵⁷ Although not a contract, many entities have prequalified lists that serve as contract research.

A prequalified contractor is one that the Applicant evaluated and determined to be qualified to perform the work based on capabilities, such as technical and management skills, prior experience, past performance, and availability. A prequalified contractor is not entitled to a "standby" contract. The Applicant must still conduct full and open competition. The Applicant cannot exclude potential bidders or offerors from qualifying during the solicitation period, even if they were not on the prequalified list.

2. General Federal Procurement Requirements

Federal procurement requirements for Tribal and local governments and PNPs are found at 2 C.F.R. § 200.318 through 200.326. The requirements include, but are not limited to:

- Providing full and open competition¹⁵⁸ (Tribal government Applicants may provide preference to Indian organizations or Indian-owned economic enterprises¹⁵⁹ if the

¹⁵³ See [Chapter 3:VI. Applicant Eligibility](#) for a description of which Applicants are Tribal or local governments or PNPs.

¹⁵⁴ 2 C.F.R. § 200.318(a).

¹⁵⁵ Ibid.

¹⁵⁶ 2 C.F.R. § 200.318(c)(1).

¹⁵⁷ 2 C.F.R. § 200.319(d).

¹⁵⁸ 2 C.F.R. § 200.319(a).

¹⁵⁹ Per the Indian Financing Act of 1974, Pub. L. No. 93-262, § 2(e), 88 Stat 77 (codified as amended at 25 U.S.C. § 1452(f)), an Indian organization is the governing body of any federally recognized Tribe or an entity established or

Applicant substantiates that it met the Indian Self-Determination and Education Act requirements).

- Conducting the following steps to ensure the use of small and minority businesses, women's business enterprises, and labor surplus area firms when possible:¹⁶⁰
 - Place such organizations that are qualified on solicitation lists;
 - Ensure such organizations are solicited whenever they are potential sources;
 - Divide total requirements, when economically feasible, into smaller tasks or quantities;
 - Establish delivery schedules, where the requirement permits, which encourage their participation;
 - Use the services and assistance, as appropriate, of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - Require prime contractor to conduct the above steps if subcontracting.

Note that Tribal government Applicants using the Indian Self-Determination and Education Assistance Act preference do not need to separately follow the six socioeconomic steps outlined above.

- Performing a cost or price analysis in connection with every procurement action above the simplified acquisition threshold,¹⁶¹ including contract modifications. The Applicant must make independent estimates before receiving bids or proposals.¹⁶² Additionally, the Applicant must negotiate profit as a separate element of the price when it performs a cost analysis and for each contract in which there is no price competition.¹⁶³
- Evaluating and documenting the contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources.¹⁶⁴
- Ensuring that the contractor was not suspended or debarred.¹⁶⁵
- Prohibiting the use of statutorily or administratively imposed SLTT geographic preferences in evaluating bids or proposals except where expressly encouraged by applicable Federal law.¹⁶⁶
- Excluding contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements to ensure objective contractor performance and eliminate unfair competitive advantage.¹⁶⁷

recognized by the governing body. An Indian-owned economic enterprise is any commercial, industrial, or business activity established or organized by a member of a Federal recognized Tribe for the purpose of profit, provided that such Indian ownership constitutes 51 percent or more of the enterprise.

¹⁶⁰ 2 C.F.R. § 200.321.

¹⁶¹ The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. § 2.101. The threshold is adjusted periodically for inflation.

¹⁶² 2 C.F.R. § 200.323(a).

¹⁶³ 2 C.F.R. § 200.323(b).

¹⁶⁴ 2 C.F.R. § 200.318(h).

¹⁶⁵ 2 C.F.R. § 200.213.

¹⁶⁶ 2 C.F.R. § 200.319(b).

¹⁶⁷ 2 C.F.R. § 200.319(a).

- Maintaining records to detail the history of the procurement including, but are not limited to:
 - Rationale for the method of procurement;
 - Selection of contract type;
 - Contractor selection or rejection; and
 - The basis for the contract price.¹⁶⁸

3. Procurement Methods

Tribal and local governments and PNPs must use one of the following procurement methods:¹⁶⁹

- Micro-purchase;
- Small purchase procedure;
- Sealed bid (formal advertising);
- Competitive proposal; or
- Noncompetitive proposal (sole-sourcing).

(a) Noncompetitive Procurement

FEMA may reimburse costs incurred under a contract procured through a noncompetitive proposal, also referred to as sole-source, only when one or more of the following circumstances apply:

- The item is only available from one source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (this exception to competitive procurement is only for work specifically related to the circumstance and only while the circumstances exists. Therefore, Applicants need to immediately begin the process of competitively procuring similar goods and services and transition to a competitively procured contract as soon as the circumstances cease to exist);
- FEMA or the Recipient expressly authorizes a noncompetitive proposal in response to a written request from the Applicant; or
- After solicitation of several sources, competition is determined inadequate.¹⁷⁰



Terminology: Procurement Methods

Micro-purchase: purchase of supplies or services where the total cost does not exceed the micro-purchase threshold set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1.

Small purchase procedure: relatively simple and informal procurement method for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1.

Sealed bid: publicly solicited bid awarded via a firm fixed price contract to the lowest responsive and responsible bidder.

Competitive proposal: normally conducted with more than one source submitting an offer and generally used when conditions are not appropriate for the use of sealed bids.

Noncompetitive proposal: solicitation of a proposal from only one source.

See 2 C.F.R. § 200.320 for Federal rules that apply to each individual method.



Terminology

Exigency: The existence of a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to the Applicant.

Emergency: The existence of a threat to life, public health or safety, or improved property requiring immediate action to alleviate the threat.

¹⁶⁸ 2 C.F.R. § 200.318(i).

¹⁶⁹ 2 C.F.R. § 200.320.

¹⁷⁰ 2 C.F.R. § 200.320(f).

For each noncompetitive procurement, the Applicant must identify which of the four circumstances listed above apply and provide all of the following information, documentation, and justification:

- A brief description of the product or service being procured, including the expected amount of the procurement;
- Explanation of why a noncompetitive procurement is necessary. If there was a public exigency or emergency, the justification should explain the specific conditions and circumstances that clearly illustrate why competitive procurement 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);
- Length of time the noncompetitive contract will be used for the defined SOW, and the impact on that SOW should the noncompetitively procured contract not be available for that amount of time (e.g., how long does the Applicant anticipate the exigency or emergency circumstances to continue; how long it will take to identify requirements and award a contract that complies with all procurement requirements; or how long it would take another contractor to reach the same level of competence);
- The specific steps taken to determine that the Applicant could not have used, or did not use, full and open competition for the SOW (e.g., research conducted to determine that there were limited qualified resources available that could meet the contract provisions);
- Any known conflicts of interest and any efforts that the Applicant made to identify potential conflicts of interest before the noncompetitive procurement occurred. If the Applicant made no efforts, explain why; and
- Any other justification.



Procurement of Real Property

The purchase or lease of real property is a unique transaction that might not readily allow use of one of the competitive methods of procurement. If the Applicant is unable to conduct a competitive procurement, it may use a noncompetitive method in accordance with the requirements in this section. The appropriate method will depend on the facts and circumstances of each procurement.



Example of an Exigent Situation

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 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.



Example of an Emergency Situation

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 majority of the 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.

If FEMA determines that none of the allowable circumstances existed or did not preclude the Applicant from adhering to competitive procurement requirements, FEMA may disallow all or part of the associated costs.¹⁷¹

4. Contract Types

FEMA reimburses costs incurred by Tribal and local governments and PNPs using three types of contract payment obligations: fixed price, cost-reimbursement, and, to a limited extent, T&M. The specific contract types related to each of these are described in FEMA’s *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)*.¹⁷²

Tribal and local governments and PNPs must maintain oversight on all contracts to ensure contractors perform according to the conditions and specifications of the contract and any purchase orders.¹⁷³

(a) Time and Material Contracts

T&M contracts do not provide incentives to the contractor for cost control or labor efficiency. Therefore, use of T&M contracts are only allowed if all of the following apply:

- No other contract type was suitable;
- The contract has a ceiling price that the contractor exceeds at its own risk; and
- The Applicant maintains a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.¹⁷⁴

¹⁷¹ 2 C.F.R. § 200.338.

¹⁷² www.fema.gov/media-library/assets/documents/96773.

¹⁷³ 2 C.F.R. § 200.318(b).

¹⁷⁴ 2 C.F.R. § 200.318(j).

FEMA generally limits the use of T&M contracts to a reasonable timeframe based on the circumstances during which the Applicant could not define a clear SOW. Therefore, the Applicant should define the SOW as soon as possible to enable procurement of a more acceptable type of contract.

Some entities, such as Rural Electrical Cooperatives, provide the materials necessary to restore the facilities and refer to such contracts as Time and Equipment (T&E) contracts. The limitations and requirements that apply to T&M contracts also apply to T&E contracts.

(b) Cost-Plus-Percentage-of-Cost or Percentage-of-Construction

In addition to limiting reimbursement to costs that can be determined to be reasonable, FEMA does not reimburse the increased cost associated with the percentage on a cost-plus-percentage-of-cost calculation or percentage-of-construction cost method.¹⁷⁵ This type of contract billing is prohibited as it does not provide incentive to contractors to control costs because the contractor's profit increases as the costs of performance increase. Instead, it provides a financial interest to the contractor to increase costs so that its profit increases. FEMA identifies these cost methods by determining whether:

- Payment is on a predetermined percentage rate;
- The predetermined percentage rate is applied to actual performance costs;
- The contractor's total payment amount is uncertain at the time of contracting; and
- The contractor's payment increases commensurately with increased performance costs.¹⁷⁶

5. Additional Contracting Considerations

(a) Pre-Positioned Contracts

Some Applicants have pre-positioned contracts, which are contracts awarded before an incident occurs for the potential performance of work. These contracts are also referred to as advance or standby contracts. FEMA may reimburse reasonable costs under a pre-positioned contract if:

- It was originally procured in compliance with Federal procurement requirements;
- The scope of work was adequate to cover the work performed;
- The work performed was eligible; and
- The contract term covers time when work was performed.

(b) Cooperative Purchasing

A cooperative purchasing program is a cooperative arrangement for acquiring goods or services that involves aggregating the demand of two or more entities to obtain a more economical purchase.¹⁷⁷ Program membership may provide entities with access to lists of agreements or contracts for goods and services at pre-negotiated rates or prices. Typically, the member then purchases the goods or

¹⁷⁵ 2 C.F.R. § 200.323(d).

¹⁷⁶ See *Federation Aviation Administration -Request for Advance Decision*, 58 Comp.Gen. 654, 655 (1979), 79-2 CPD 34; *Marketing Consultants International Limited*, 55 Comp.Gen. 554, 562 (1975), 75-2 CPD 384.

¹⁷⁷ Cooperative purchasing programs are distinguishable from joint procurements. A joint procurement is a method of contracting in which two or more purchasers agree from the outset to use a single solicitation and enter into a single contract with a vendor for the delivery of goods or services. Joint procurements must still comply with Federal procurement requirements. However, FEMA sees fewer compliance issues with joint procurements.

services by negotiating with participating vendors and placing purchase orders or entering into contracts based on the pre-negotiated rates or prices. FEMA advises against the use of cooperative purchasing programs due to frequent compliance issues with Federal procurement requirements. [Appendix D: Frequent Compliance Issues with Cooperative Purchasing Programs](#) provides a list of frequent compliance issues with cooperative purchasing programs for procurements above the simplified acquisition threshold. Applicants must document and explain how its use of the program complied with all procurement requirements.

Piggyback contracting is a type of cooperative purchasing and occurs when one entity assigns the contractual rights it has in a contract to another entity. FEMA advises against the use of piggyback contracts. Piggyback contracts are usually not compliant with Federal requirements as the scope of work pertains to the needs of a different entity.

C. **Required Contract Clauses**

Applicants must include required provisions detailed in 2 C.F.R. § 200.326 in all contracts awarded.¹⁷⁸ Some provisions are based on sound contracting practices while others are required by Federal law, EO, and regulations.

Required contract provisions include:

- Remedies Clause;
- Termination for Cause;
- Termination for Convenience;
- Equal Employment Opportunity;
- Contract Work Hours and Safety Standards Act;
- Homeland Security Acquisition Regulation Class Deviation 15-01 clauses; “Safeguarding of Sensitive Information” and “Information Technology Security and Privacy Training” for existing and new contracts and solicitations that have a high risk of unauthorized access to or disclosure of sensitive information;¹⁷⁹
- Clean Air Act;
- Federal Water Pollution Control Act;
- Debarment and Suspension;
- Byrd Anti-Lobbying Amendment Clause;
- Byrd Anti-Lobbying Amendment Certification; and
- Procurement of Recovered Materials.

In addition to the required provisions, FEMA also recommends the following contract provisions be included in all contract awards:

- Changes Clause;

¹⁷⁸ 2 C.F.R. § 200.326.

¹⁷⁹ “Sensitive Information” is defined in Homeland Security Acquisition Regulation clause 3052 204-71, *Contractor Employee Access*, as any information, which if lost, misused, disclosed, or without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. § 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy.

- Access to Records;
- Department of Homeland Security Seal, Logo, and Flags;
- Compliance with Federal Law, Regulations, and EOs Clause;
- No Obligation by Federal Government; and
- Program Fraud and False or Fraudulent Statements or Related Acts.

Some provisions do not apply under the PA Program (e.g. Davis Bacon Act¹⁸⁰ and Rights to Inventions Clause) while others require verbatim language. [Appendix K: Contract Provisions](#) provides the exact language for the provisions that require verbatim language and provides sample language for some of the other provisions.

D. Documentation Requirements

The Applicant should submit the following to support contract costs claimed (not an all-inclusive list):

- Procurement policy (required when requested);
- Procurement documents (i.e., requests for proposals, bids, selection process, etc.) (required when requested);
- A cost or price analysis (required for contracts above the simplified acquisition threshold)
- Contracts, change orders, and summary of invoices (required);
- Dates worked (required when requested);¹⁸¹ and
- Documentation that substantiates a high degree of contractor oversight, such as daily or weekly logs, records of performance meetings (required for T&M contracts when requested).

IX. Mutual Aid

When the Applicant does not have enough resources to respond to an incident, it may request resources from another jurisdiction through a “mutual aid” agreement. FEMA refers to the entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested resource as the Providing Entity.

FEMA provides PA funding to the Requesting Entity as it is legally responsible for the work. FEMA does not provide PA funding directly to the Providing Entity. For the work to be eligible, the Requesting Entity must have requested the resources provided.

Some States have a statewide mutual aid agreement that designates the State as being responsible for reimbursing mutual aid costs. In these States, the Providing Entity may request funding directly from the State, with prior consent of the Requesting Entity, in accordance with applicable State laws and procedures. If the Requesting entity and the State approve the request and the State pays the Providing Entity, FEMA provides PA funding to the State. The

¹⁸⁰ The Davis Bacon Act requires “prevailing wage” payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labors. If the Applicant incorporates prevailing wage rates as part of its normal practice for all contracts regardless of the funding source, then those rates are eligible.

¹⁸¹ FEMA may request this information to validate work was completed within the project’s approved period of performance and when applicable for Emergency Work, to determine cost share application per [Chapter 6:XIII. Increased Federal Cost Share for a Limited Timeframe](#))