

MICHIGAN STATE POLICE
PUBLIC ASSISTANCE
APPLICANT BRIEFING 4607-MI



DISASTER DECLARATION FEMA-4607-MI



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- **IMPORTANT:** Please let us know you are here by completing the survey in the chat;
 - Add your name, organization, and contact information into the chat box if you are unable to complete the survey;
 - Or if you are on the phone, email us your name, organization, and contact information so we can contact you.
- The presentation will be posted on the MSP/EMHSD web site at www.michigan.gov/emhsd.
- Questions and answers at the end of the presentation.
 - Or enter your questions into the chat box, and we will be sure to answer them either today, or we will get back to you.

AGENDA

Objective: Provide overview of the delivery of the Public Assistance (PA) Grant Program

- Introduction/Disaster Information
- PA Eligibility
- PA Process
- Additional Considerations
- Procurement
- Post-Award Grants Management
- Next Steps
- Questions

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- FEMA makes the final decision on eligibility and funding
- FEMA will not duplicate assistance provided by insurance or any other Federal assistance

DECLARATION SUMMARY

- Number: FEMA-DR-4607-MI
- Declaration Date: July 15, 2021 (amended November 10, 2021)
- Incident Period: June 25-26, 2021
- Type: Severe Storms and Flooding
- Designated Areas*: Ionia and Wayne Counties
- Cost Share: 75% Federal, 25% Non-Federal

*Pursuant to section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207

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- Due date for RPA's (Requests for Public Assistance) – December 20, 2021
- Submit in the FEMA Grants Portal

MSP/EMHSD – RECOVERY UNIT

Matt Schnepf, Manager
State Hazard Mitigation Officer (SHMO)

- Individual Assistance (IA)
 - Sara MacRae, State IA Officer
- Public Assistance (PA)
 - Tiffany Vedder, State PA Officer
 - Marisela Shellenbarger, Deputy PA Officer
 - Deressa Walker, Public Assistance Analyst
 - Ashley Gibbs, Public Assistance Analyst
- Hazard Mitigation (HM)
 - Scott Stockert, Hazard Mitigation Analyst
 - Audrey Gilbert, Hazard Mitigation Analyst
 - Kelly Rosser, Hazard Mitigation Analyst



FEMA Public Assistance

FEMA's Public Assistance Program provides supplemental grants to state, tribal, territorial, and local governments, and certain types of private non-profits so that communities can quickly respond to and recover from major disasters or emergencies.

More detailed information can also be found in the [*FEMA Public Assistance Program and Policy Guide*](#).



FEMA



The program provides funding for emergency assistance to save lives and protect property and assists with funding for permanently restoring community infrastructure affected by a federally declared incident

\$4.7 billion per year on average in assistance - 51% of FEMA grant dollars

- PA provides disaster **assistance**; FEMA, the state (as the Recipient) and the applicant work together to restore community infrastructure
- Must request and receive a DECLARATION from the President to access this funding source

****New Version (Version 4) of the PAPPG for disasters declared June 1, 2020 (do not confuse with the PAPPG for COVID-19)**

PUBLIC ASSISTANCE PROGRAM

- Assists in the restoration of community infrastructure to **pre-disaster conditions**
- Provides supplemental cost **reimbursement** with specific eligibility requirements
- FEMA provides funds to the **State (Recipient)** who reimburses **eligible** applicants



PUBLIC ASSISTANCE ELIGIBILITY

MARISELA SHELLNBARGER, DEPUTY PUBLIC ASSISTANCE OFFICER

PUBLIC ASSISTANCE ELIGIBILITY STRUCTURE



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- Four basic components of PA eligibility
- FEMA refers to these as the building blocks of an eligibility pyramid
- Each must be considered eligible beginning from the foundation “Applicant” of the pyramid
- All four must be met

****The Applicant is responsible for providing documentation to support each component.**

APPLICANT ELIGIBILITY

State, Tribal, Territorial and Local Governments

- State Agencies
- Tribes
- Counties, Cities, Townships, and Villages
- Local public authorities
- School districts
- Special districts established under state law

Certain Private Non-Profit (PNP) Organizations

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FEMA must determine if the Applicant is eligible before evaluating the Applicant's claim

PRIVATE NON-PROFIT ORGANIZATIONS

Critical Services

Private Non-Profit (PNP) facilities that provide the following critical services are eligible for PA:

- Fire/Emergency Rescue
- Medical Treatment
- Power, Water, and Sewer Utilities
- Communications Systems
- Educational Institutions



- Upon submitting an RPA, the PNP must provide documentation substantiating the PNP is a non-revenue producing, nonprofit entity organized or doing business under State law.
- Private entities 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.

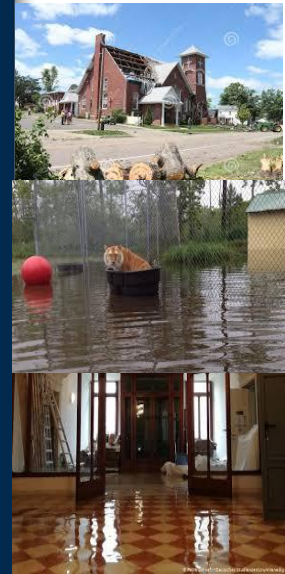
PRIVATE NON-PROFIT ORGANIZATIONS

Essential Services

PNP facilities that provide essential services are eligible for PA:

- Community Centers
- Houses of Worship
- Homeless Shelters
- Custodial Care
- Museums, Libraries, Zoos

Other facilities that provide health and safety services of a government nature



****Measures to protect life, public health, and safety are generally the responsibility of state, local, tribal, and territorial (SLTT) governments; to be eligible for PA reimbursement, work must be the legal responsibility of an eligible applicant.***

These PNP's must apply to the Small Business Administration (SBA) for a disaster loan for permanent repair work. FEMA only provides PA funding for eligible Permanent Work that an SBA loan will not cover for those facilities.

Examples of Health and Safety services of a government nature include:

- Alcohol and drug treatment
- Assisted living
- Rehabilitation

The PAPPG provides charts and a more detailed explanation of eligible PNPs beginning on page 43.

FACILITY ELIGIBILITY

Eligible Facilities are:

- Buildings, works, systems, or equipment, built or manufactured, or an improved and maintained natural feature
- In active use at the time of the disaster

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An example of a system that qualifies as facility is a water distribution system. Mechanical, electrical, plumbing, and other systems that are components of a facility in which they operate are considered part of that facility

A natural feature is improved and maintained if it meets all of the following conditions:

- The natural feature has a designed and constructed improvement to its natural characteristics, such as a terraced slope or realigned channel
- The constructed improvement enhances the function of the unimproved natural feature
- The Applicant maintains the improvement on a regular schedule to ensure that the improvement performs as designed
- Only the section of a natural feature that meets this criteria is eligible. For example, if only 150 linear feet of a natural channel bank is armored with rip rap and maintained, only the 150 linear foot section would be eligible.

WORK ELIGIBILITY

To be eligible, work must:

- ✓Required as a result of the declared incident;
- ✓Located within the designated areas **(Ionia and Wayne Counties)**;
- ✓Not fundable by another Federal agency, and
- ✓Legal responsibility of an eligible Applicant.

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To determine legal responsibility for Emergency Work, FEMA evaluates whether the Applicant requesting the assistance either had jurisdiction over the area or the legal authority to conduct the work related to the request at the time of the incident.

TYPES OF WORK

Emergency Work

- A – Debris Removal
- B – Emergency Protective Measures

Permanent Work

- C – Road and Bridge Systems
- D – Water Control Facilities
- E – Public Buildings/Equipment
- F – Public Utilities
- G – Parks, Recreational, and Other Facilities



- FEMA breaks work up by category to facilitate the process of PA funding.
- Work is separated into two categories: Emergency Work, which addresses an immediate threat, and Permanent Work, which is for restoration of eligible public facilities.

EMERGENCY WORK

Category A – Debris Removal

- Eliminates an immediate threat to life, health, and safety
- Eliminates an immediate threat of significant damage to improved property
- Ensures economic recovery of the community and provides a benefit for the community-at-large



- Track quantities and from where it started to where it ended
- EGLE (formerly DEQ) requirements (i.e., Permits) must be followed
- **Private property debris removal is not eligible** Legal responsibility issue (private property)
- Exception: Incident-related, private property debris can be brought to the ROW and picked up by contractors

FEMA has several tools online to assist you with debris management:

- FEMA Debris Removal Fact Sheet – Tips
- FEMA Private Property Debris Removal Fact Sheet
- FEMA Debris Management Handbook, which also includes, a DEBRIS MANAGEMENT PLAN TEMPLATE

EMERGENCY WORK

Category B – Emergency Protective Measures

- Saves lives
- Protects public health and safety
- Protects improved property, or
- Eliminates or lessens an immediate threat of additional damage



Examples: sandbagging, pumping, barricades for road closures or public safety, fire and law enforcement services, search and rescue, medical care and transport, evacuation and sheltering, EOC-related costs

Only category separating out straight time and overtime (budgeted and non-budgeted)

PERMANENT WORK

Work Categories C-G

- Must repair, restore, or replace disaster-damaged facilities
- Must restore to pre-disaster design, capacity, and function in accordance with applicable codes and standards
- Must be required as a result of the disaster
- In conformity to current codes and standards
- May include cost-effective mitigation measures

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- Most cost-effective way to put it back to the condition it was before the incident
- Capacity (generators, pumps, etc.) to what you had before

COST ELIGIBILITY

To be eligible for reimbursement, costs must be:

- Incurred from **eligible** work and adequately **documented**;
- **Reduced** by insurance proceeds, salvage value, or other credits;
- **Authorized and permitted** under Federal, State, Tribal, or local government laws or regulations;
- Consistent with the Applicant's **internal policies**, regulations, and procedures; and
- **Necessary** and **reasonable** to accomplish the work properly and efficiently.

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To be eligible, Costs must be:

- Directly tied to the performance of eligible work;
- Adequately documented;
- Reduced by credits, such as insurance proceeds or salvage value;
- Authorized and not prohibited under Federal, State, Tribal, or local government laws or regulations;
- Consistent with the Applicant's internal policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the Applicant; and
- Necessary and reasonable to accomplish the work properly and efficiently.

COST ELIGIBILITY – REASONABLE COSTS

The Applicant is responsible for providing documentation to demonstrate that claimed costs are reasonable.

FEMA determines **reasonable cost** by evaluating whether the cost is recognized as necessary for type of work.

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FEMA determines reasonable cost by evaluating whether:

- Cost is of type generally recognized as ordinary and necessary for the type of work
- Applicant participated in ethical business practices
- If exigent or emergency circumstances exists, FEMA evaluates the length of time the circumstances existed compared to the length of time costs were incurred
- Cost is comparable to current market price (based on historic data, average costs in area, etc.)
- Applicant deviated from its established practices and policies
- Applicant complied with procurement requirements
- Cost compare with other Applicant's project Cost



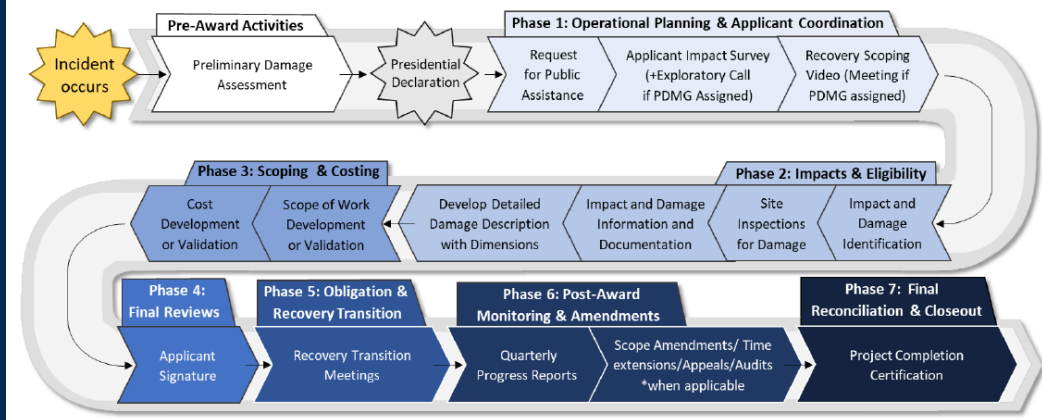
PUBLIC ASSISTANCE PROCESS

TIFFANY VEDDER, PUBLIC ASSISTANCE OFFICER

PA PROGRAM DELIVERY PROCESS

FEMA Public Assistance

PROGRAM DELIVERY PROCESS STEPS for APPLICANTS



- FEMA developed and implemented a PA Program Delivery Model in 2018 to provide better grants management and fiscal responsibility from beginning to end and consolidated subject-matter experts in Consolidated Resource Centers (CRC) to improve consistency and accuracy while building agency-wide capacity to support disaster operations nationwide.
- The current PA Program Delivery process includes seven phases, page 19 of the PAPPG, V4.
- The process used for this disaster will be this phased approach and not the process used for DR-4195 or DR-4494 for COVID-19.
- Some primary steps are discussed in the next couple slides.

****Suggest printing off this slide or going to the Grants Portal Resources to print if off as a guide****

Exploratory Call (normally within 7 days)

Program Delivery Manager (PDMG) Introduction

- Federal Representative from FEMA
- Single point-of-contact
- Guide throughout entire Public Assistance process
- Get an initial sense of the needs and damage
- Identify Recovery Scoping Meeting participants

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- Your FEMA program delivery managers (PDMG) is your first contact for all FEMA PA process questions
- Most meetings will be virtual calls via MS Teams, Zoom, etc.
- Applicants and their FEMA program delivery managers (PDMGs) will determine how often they will have calls

Recovery Scoping Meeting (RSM)

(normally within 21 days)

Be prepared and organized!

- Complete Damage Inventory Form
- In-depth meeting to review damages
- Gather documentation
- Develop list of projects
- Talk through priorities

❖ **DEADLINE – Applicant has 60 days from RSM to identify additional damages**

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- The more you have prepared for this meeting, the quicker and easier the process will go, and the quicker you'll receive your funding.
- Have your PDA documents together and organized along with any additional documentation you've gathered since the PDA.

DEADLINE: Applicant has 60 days from the Recovery Scoping Meeting to identify additional damages.

Projects

Small vs. Large Projects

PA projects are processed as either small or large projects

Small Projects	Large Projects
\$3,320 to \$132,800	>\$132,800
Federal cost share is paid as soon as possible upon project approval	Federal cost share is paid as work is accomplished upon request of Applicant
Funding is based on initial cost <u>estimates</u>	Final assistance is based upon actual costs or estimates using the Cost Estimating Format (CEF)

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- For large projects, applicants MUST request reimbursement. Payments are not made just because the funding is awarded, even for work completed and fully documented.
- For large projects, **State requires proof of payment**, even though FEMA does not!

Projects

Small vs. Large Projects

For work completed, regardless of obligation status, ALL documentation is due to FEMA within **90 days** of the Recovery Scoping Meeting (RSM)

NO DOCUMENTATION, NO ELIGIBLE COSTS!!!

For small projects, certification form in lieu of documentation

Estimates for Completed AND To Be Completed Work

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PAPPG, page 185 – Costs for Projects with All Work Completed

For work completed, regardless of project worksheet (PW) obligation status, all documentation is due to FEMA within 90 days of RSM. FEMA makes the eligibility determination based on that documentation, so if a subrecipient does not submit anything – they would not have eligible costs

For small projects, FEMA uses applicant certification (see attached) in lieu of documentation; therefore, estimates can be used for both completed and to be completed work.

FEMA will require form completion:

- 1) Subrecipient Certification for Small Projects With Completed Work, Category B
Emergency Protective Measures
- 2) Subrecipient Certification for Small Projects With Completed Work, Category C-G
Permanent Work

Projects

Project Completion Deadlines

Time clock starts on the disaster declaration date – **July 15, 2021**



Declared July 15, 2021	Statutory Deadline Date	State Authorized to Extend Date (upon request/approval)
Emergency Work Deadline (6 months)	January 15, 2022	July 15, 2022
Permanent Work Deadline (18 months)	January 15, 2023	July 15, 2025

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*** Time limits for project completion begin on the disaster declaration date – **July 15, 2021 – NOT Amendment Date**

- Emergency work must be completed within 6 months – **January 15, 2022 (6 months from declaration date)**
- Permanent work must be completed within 18 months – January 15, 2023 (18 months from declaration date)
- For extenuating circumstances or project requirements beyond the Applicant's control, the Recipient (State) may extend the emergency work deadline an additional 6 months (total 12 months) and the permanent work deadline an additional 30 months (total 48 months) on a project-by-project basis.
- FEMA **may also extend the time limits**

when sufficient justification is submitted.

- Time Extension Request forms should be submitted if these projects will not be completed by the deadline.
- Forms can be found on our web site.

Improved Projects

Applicants performing restoration work on a damaged facility may make improvements to the facility while restoring the facility to its pre-disaster condition.

****Improvements must be approved by the Recipient prior to construction****

The **Applicant is responsible for the cost of the improvements.** Federal funding is limited to the cost of restoration.

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Your FEMA PDMG will discuss project options with you and is your #1 contact.

Any project that results in a significant change from the pre-disaster, such as a different

- **Location**
- **Footprint**
- **Function**
- **Size**

MUST coordinate with FEMA to ensure compliance with federal regulations

Alternate Projects

When restoration of a damaged facility or function does not serve the public welfare, an applicant may use a PA grant for another public facility.

The alternate project:

- **Must** be approved by FEMA **prior** to construction.
- May require an environmental assessment.

Federal funding is limited to 75% of the federal share of the original project estimate or actual alternate project cost (whichever is less).

DONATED RESOURCES

Applicants can use Donated Resources to offset the non-Federal cost share for eligible work costs. The Applicant must track all donated resources in order to do so.

Donated resources include:

- Volunteer Labor
- Donated Equipment
- Donated Supplies and Materials
- Logistical Support

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FEMA does not provide PA funding for donated resources; however, the Applicant may use the value of donated resources to offset the non-Federal share of its eligible Emergency Work projects and DFA.

If asked, additional details on examples of donated resources:

- **Volunteer Labor:** based on the same hourly labor rate and fringe benefits as a similarly qualified person in the Applicant's organization who performs similar work
- **Donated Equipment:** based on equipment rates
- **Donated Supplies or Materials:** based on current commercial rates
- **Logistical Support:** Reasonable logistical support for volunteers doing eligible work may be eligible either for funding or as a donations credit

PA MANAGEMENT COSTS

Management costs (under Category Z) may be claimed for administering and managing PA awards as follows:

- For Recipients, up to 7% of the total award amount (based on actual costs)
- For **Subrecipients**, up to **5%** of the Subrecipient's **total award amount** (based on actual costs)

Eligible activities may include, but are not limited to, meetings regarding the PA program or claim, preparing correspondence, reviewing PWs, collecting, copying, filing, or submitting documents to support a claim, and training

Time Limits

Important Deadlines



Applying for a PA Grant

- Applicant must submit a Request for Public Assistance (RPA) in the FEMA Grants Portal within **30 days** of the designation of the declared disaster area **December 10, 2021**

Identification of Damage

- **60 days** from Recovery Scoping Meeting (RSM) to identify damage

Work Completed **(NEW)**

- Documentation received by FEMA within **90 days** of RSM

Appeals

- Any determination related to Federal assistance may be appealed. The appeal must be submitted to the grantee within **60 days** of receipt of notice of action which is being appealed

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RPA's due in Grants Portal by December 10, 2021



PUBLIC ASSISTANCE ADDITIONAL CONSIDERATIONS

MARISELA SHELLNBARGER, DEPUTY PUBLIC ASSISTANCE OFFICER

Special Considerations

Special considerations are issues, other than program eligibility, that could affect the scope of work and funding of a project. These issues include:

- Insurance
- PA Mitigation
- Environmental Protection
- Floodplain Management
- Historic Preservation and Cultural Resources
- Consensus Based Codes and Standards

Special Considerations

Insurance

Actual or anticipated insurance proceeds will be deducted from the eligible project costs for insured facilities.

As a condition of PA funding, all applicants are required to obtain and maintain insurance coverage on all insurable facilities.

For flood damaged facilities located within a Special Flood Hazard Area that are not covered by flood insurance, Federal assistance will be reduced by the maximum flood insurance proceeds that would have been payable had the facility been insured.

Special Considerations

PA Mitigation

Section 406 of the Stafford Act authorizes Public Assistance Hazard Mitigation

Cost effective measures that reduce or eliminate the potential for damages to a facility from a future event.

For a hazard mitigation proposal to be eligible for funding under PA, the measure must apply to the damaged elements of the eligible facility.



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FEMA recognizes that after a disaster, the best time to protect a facility from future, similar damage is during the recovery period.

Mitigation projects done during recovery reduce overall cost and construction efforts associated with retrofitting a repaired facility.

If you qualify for repairs through FEMA's Public Assistance (PA) Program (Robert T. Stafford Disaster Relief and Emergency Act, Section 406), you may also be eligible for additional funding to protect your facility. **(406 mitigation as not to be confused with the 404 Hazard Mitigation Grant Program (HMGP))**

During the recovery process, FEMA will assist you with assessing damage, developing a Mitigation Proposal, and evaluating the cost-effectiveness of mitigation projects.

Special Considerations

PA Mitigation

How Can Public Assistance Mitigation Benefit You?

- 1) Prevents or reduces loss of function for public services
- 2) Helps avoid repetitive damage from disasters
- 3) Provides a long-term solution to a problem

Special Considerations

PA Mitigation

Examples of Mitigation Projects Funded by Public Assistance:

- 1) Replace drainage structure with a larger structure
- 2) Install submersible pumps in water or wastewater plants
- 3) Elevate equipment above the base flood elevation
- 4) Anchor storage tanks to prevent movement
- 5) Install shut-off valves on underground pipes
- 6) Dry floodproof buildings

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Examples of cost-effective PA mitigation measures are listed in the ***Public Assistance Program and Policy Guide, Appendix J, PAPPG, p 142*** that protect infrastructure:

Other examples shown in FEMA's brochure:

- 1) Flood door to provide facility dry floodproofing mitigation
- 2) Heat pump elevated 4 feet above ground to prevent flooding damage
- 3) Steel reinforced concrete and waterproofed flood walls around a building to protect facility from the horizontal pressure of flood water
- 4) Concrete wingwalls around a culvert to prevent road erosion

Special Considerations

PA Mitigation

Tests of Cost Effectiveness:

- 1) Demonstrate the project is cost-effective with FEMA's Benefit-Cost Analysis (BCA) toolkit
- 2) The cost of the mitigation measure does not exceed 15% of the damaged facility's repair cost to which mitigation measures apply
- 3) Must specifically be listed in **Appendix J: Cost-Effective Hazard Mitigation Measures** AND the cost does not exceed 100% of the damaged facility's repair cost to which the mitigation measure applies

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PA mitigation measures must meet one of the following tests of cost-effectiveness to be eligible

Special Considerations

Environmental and Historic Preservation (EHP) Compliance



Environmental and Historic Preservation and Disaster Recovery

- Environmental and Historic Preservation and Disaster Recovery
- Environmental Laws and Project Requirements
- Tribal Consultation Requirements
- Floodplains, Wetlands, and the Coastal Zone
- Waterways, Culverts, and Bridges
- Historic Preservation
- Debris Disposal and Hazardous Materials
- Protected Species and Habitats

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- This FEMA developed EHP brochure, which can be found on our website, presents an overview of several environmental and historic preservation laws. FEMA must document compliance with these and other laws and executive orders before funding for Public Assistance projects can be obligated.
- It includes contact information for individuals from FEMA, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, MI National Flood Insurance Program (NFIP), MI DNR, MI EGLE Debris, Water Management Specialist, and the MI Coastal Management Program, who can provide more information on EHP requirements, as well as guidance on environmental and historic preservation review, permitting, and approval processes.
- The brochure will be posted on our web site.

Special Considerations

Environmental and Historic Preservation (EHP)

All FEMA funded projects require some level of environmental review:

- **Most projects are easily and quickly reviewed by EHP Specialists**
 - Many types of emergency actions or debris removal/disposal in licensed facilities
 - Repairs exactly to pre-disaster condition or temporary repairs
- **Some require detailed review by Floodplain, Wetland, Endangered Species or Historic Specialists**
 - Debris disposal in areas not previously permitted
 - Projects that change the pre-disaster condition of the facility
 - Repairs that include hazard mitigation to facilities over 45 years old
 - Projects located near bodies of water, wetlands, or floodplains

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Special Considerations

Environmental and Historic Preservation (EHP)

(CONTINUED...)

- Some projects require consultation with state or federal agencies

- Projects with significant mitigation actions
- Improved or alternate projects
- Projects that include new ground disturbance

***Failure to comply could jeopardize or delay funding. Questions, contact FEMA's Public Assistance or EHP staff as soon as possible to avoid compliance issues and funding delays.**

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*****In all cases, failure to comply with applicable environmental and historic preservation laws and other requirements could jeopardize or delay funding. If you have questions, be sure to contact FEMA's Public Assistance or EHP staff as soon as possible to avoid compliance issues and funding delays.***

Special Considerations

Environmental Laws and Project Requirements

Critical Federal Laws and Executive Orders:

- National Environmental Policy Act (NEPA)
- National Historic Preservation Act
- Endangered Species Act
- Clean Water Act
- Rivers and Harbors Act of 1899
- Coastal Zone Management Act
- Executive Order 11988: Floodplain Management
- Executive Order 12898: Environmental Justice



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The National Environmental Policy Act (NEPA) is the primary environmental law that directs federal agencies to consider the environmental effects of their actions, such as funding disaster recovery projects. In addition to NEPA, a number of major environmental and historic preservation laws and executive orders apply when rebuilding or replacing infrastructure.

Some complex projects need very detailed reviews, including consultation with state and federal regulatory agencies, before construction begins. Others require some consideration for environmental and historic preservation compliance before funding is approved. Many activities with minimal impacts can proceed before environmental or historic review is complete.

Special Considerations

Consensus Based Codes and Standards

Authority - Disaster Recovery Reform Act of 2018 (DRRA) Section 1206, Code Administration and Enforcement amended the Stafford Act.

- **Section 402: General Federal Assistance - 42 U.S.C. §5170a**
 - “provide assistance to state and local governments for building code and floodplain administration and enforcement, including inspections for substantial damage compliance.”
- **Section 406: Repair, Restoration, and Replacement of Damaged Facilities - 42 U.S.C. §5172**
 - “base and overtime wages for extra hires to facilitate the implementation and enforcement of adopted building codes for a period of not more than 180 days after the major disaster is declared.”



FEMA



Federal Emergency Management Agency

With the implementation of the PA program there are opportunities to make improvements that prevent future similar damages through code compliance.

- FEMA has adopted a Consensus Based Codes, Standards, and Specification (CBCSS) Policy
- Applies to permanent work projects, Categories C-G, but is limited to **buildings, electric power, roads, culverts, bridges, potable water, and wastewater projects**.
- Under CBCSS when repairing disaster damage to these facilities Applicants must incorporate the codes FEMA considers to be consensus-based codes.
 - These codes are listed in Appendix A of the CBCSS policy. ([Section 1235\(b\) | Consensus-Based Codes and Standards | FEMA.gov](#))
- In Michigan, many of FEMA’s consensus-based codes have been adopted statewide. Therefore, when you are building back after a disaster and are complying with state codes you are simultaneously complying with many of the consensus-based codes.
 - Example one, if an electrical pump was damaged during the disaster event, the existing electrical wiring and switchgear would likely need to be replaced to comply with the National Electrical Code. The National Electrical Code is a consensus-based code under the CBCSS Policy and has been adopted statewide in Michigan. The process of complying with local and state codes makes this project also compliant with FEMA’s CBCSS.
 - Example two, if a roof is damaged due to wind damage and requires replacement, the new roof would need to comply with wind resistant standards outlined in the

International Building Code, which has been adopted statewide in Michigan and is considered by FEMA to be a consensus-based code. The process of complying with local and state codes makes this project also compliant with FEMA's CBCSS.

- If local or state codes are more stringent than FEMA's CBCSS those still can be considered but would require the evaluation of eligibility by FEMA staff.
- FEMA's list of potential consensus-based codes is extensive. Applicants who would like to seek technical support in complying with the CBCSS are encouraged to request funding from FEMA for engineering evaluation and analysis to assess compliance with the CBCSS Policy.

DRRA 1206 Authorizes FEMA to Provide Resources to State, Local, Tribal and Territorial (SLTT) Partners



Building Code Administration (review and process building applications; collect fees; hire, train, supervise staff; etc.)



Code Enforcement (inspect structures; review elevation certificates; conduct and process condemnation determinations; etc.)



Floodplain Management Regulation, Administration, and Enforcement (hire, train, supervise staff; provide training; process permits; etc.)



Substantial Damage Operations (conduct field surveys; prepare cost information; perform inspections; etc.)



FEMA



Federal Emergency Management Agency



PUBLIC ASSISTANCE PROCUREMENT

TIFFANY VEDDER, PUBLIC ASSISTANCE OFFICER

Procurement – PDAT Training/Resources

[Procurement Under Grants Training | FEMA.gov](https://www.fema.gov/procurement-under-grants-training)

Procurement Under Grants Training

Upcoming Trainings

Recorded Training Sessions

Request PDAT Training

PDAT offers live virtual trainings and offers a webinar series available anytime to help you understand how to purchase in compliance with federal procurement rules.

Popular Links and Resources Shared in Training

PDAT's Webpage

How To Avoid The Top 10 Procurement Mistakes

PDAT Field Manual

PDAT Contract Provisions Template

Public Assistance Policy, Guidance and Fact Sheets

State Entity FAQs

Virtual PDAT Training Scheduled for
December 7, 2021 @ 10 a.m.
(Information Coming Soon)

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*****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.***

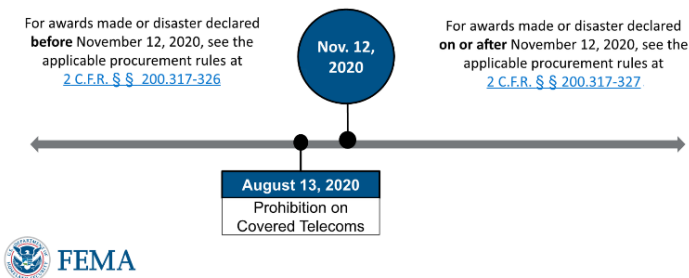
Procurement Disaster Assistance Team (PDAT) web site has many resources regarding procurement including:

- Upcoming training, recorded training sessions, AND request a PDAT training
- Fact Sheets regarding Procurement
- Contracting Template
- Key points on how to avoid the top 10 Procurement Under Grants Mistakes

Procurement

New Regulations for disasters declared after 11/12/2020:

OMB Updates to the Federal Procurement Regulations



***Slide information from K0705 Fundamentals of Grants Management Training, Emergency Management Institute (EMI) procurement presentation, November 2021.

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Slide information taken from K0705 Fundamentals of Grants Management Training, Emergency Management Institute (EMI) procurement presentation, November 2021

****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.
INCLUDE STATISTIC!!!!!!!!!!!!!!!!!!!!**

PDAT Field Manual - published a few weeks ago:
[Procurement Disaster Assistance Team \(PDAT\) Field Manual - Procurement Information for FEMA Award Recipients and Subrecipients - October 2021](#)

Contract Provision Guide:
[Contract Provisions Guide: Navigating Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards \(fema.gov\)](#)

Procurement

Full Procurement Regulations: 2 CFR §§ 200.317 – 200.327

Rules that Apply to States

Are You a State Entity?

- Any State of the United States
- District of Columbia
- US Territories:
 - Commonwealth of Puerto Rico
 - U.S. Virgin Islands
 - Guam
 - American Samoa
 - Commonwealth of the Northern Mariana Islands
- State Agency
- State Instrumentality



FEMA

Applicable Rules

317	Procurements by States
318	
319	
320	
321	Socioeconomic Steps (new)
322	Domestic Preferences (new)
323	Recovered Materials
324	
325	
326	
327	Contract Provisions

Replay

A State

must
Follow State
procurement
policies and



Socioeconomic Steps

Domestic Preferences

Recovered Materials

Contract Provisions

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***Slide information from K0705 Fundamentals of Grants Management Training, Emergency Management Institute (EMI) procurement presentation, November 2021.

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- Reach out to your legal counsel to determine if you are considered a state entity, if pursuant to your state code.
- 321 Socioeconomic Steps (NEW) -Only applied to non-state entities, but now apply to state entity
- 322 Domestic Preference -Encouraged

Procurement

Full Procurement Regulations: 2 CFR §§ 200.317 – 200.327

Rules that Apply to Non-State Entities

Are You a Non-State Entity?

- Local Governments
- Tribal Governments
- Hospitals (some)
- Institutions of Higher Education (some)
- Other Private Non-Profit Organizations

Applicable Rules

Must follow **own**
procurement policies
and procedures



Must follow **state**
or **Tribal Law**



Must follow **federal**
procurement standards
(318-327)



318	General Procurement Standards
319	Competition
320	Procurement Methods
321	Socioeconomic Contracting
322	Domestic Preferences (new)
323	Recovered Materials
324	Contract Cost or Price
325	Acquisition Review
326	Bonding Requirements
327	Contract Provisions



FEMA

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***Slide information from K0705 Fundamentals of Grants Management Training, Emergency Management Institute (EMI) procurement presentation, November 2021.

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Procurement under Exigency or Emergency (E&E) Circumstances

Noncompetitive procurements (exception) 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**, FEMA approval not required

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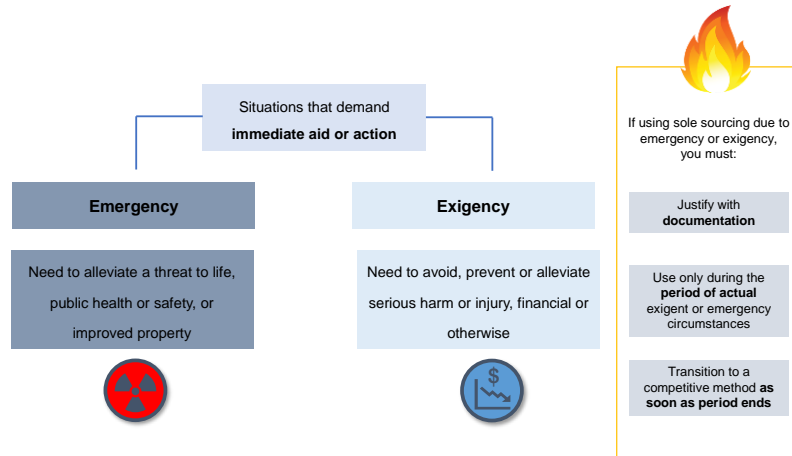
What is the exigency or emergency exception?

Non-state entities must follow the procurement requirements found at 2 C.F.R. §§ 200.317 – 200.327. 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.

Procurement Under Grants Conducted Under Exigent or Emergency Circumstances 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.

For more information, please see the *Fact Sheet: Procurement Under Grants Conducted Under Exigent or Emergency Circumstances*

Sole-Source Procurement Under E&E



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FEMA only allows exceptions to full/open competition for a limited time period during the exigent and emergency period of a disaster incident.

Exigency or Emergency Circumstance: The public exigency or emergency will not permit a delay resulting from the full and open competition process.

- The use of an exception to full and open competition is limited and only permissible during the period of actual exigency or emergency. Once this period ends, the non-state applicant must transition to a procurement compliant with the requirements of full and open competition.
- Although the terms are often used interchangeably, “exigency” and “emergency” are not necessarily the same.

Emergency: an unexpected and unusually dangerous situation that calls for immediate action or an urgent need for assistance or relief. E.g. threat to life, public health or safety, improved property, and/or some other form of dangerous situation.

- Example: A severed power line remains live and is dangling near an apartment

building. If not addressed immediately, this live wire poses a risk of igniting the building on fire or causing bodily harm. The emergency would not extend to repair and restoration of the city's power lines beyond resolution of this limited dangerous situation.

Exigency: something that is necessary in a particular situation that requires or demands immediate aid or action.

- Example: Augusta, GA using a noncompetitive procurement in advance of The Masters Golf Tournament to remove debris blocking the roadways. If not removed immediately, the debris threatened to force cancellation of this major economic activity for the region. The exigency only existed up until the day that the tournament started. Full and open competition was required for procurements after the commencement of the tournament.

Important Considerations while using this exception:

- The applicant needs to document the justification for using the emergency or exigency exception. The justification will be fact-based. Even if procurement by a noncompetitive proposal was necessary initially due to an exigency or emergency, that exception is not indefinite. Once that exigency or emergency ends, the applicant should transition to a competitively awarded contract when competition becomes feasible. Accordingly, it is very important to start PLANNING for one of the other procurement methods as soon as that initial contract is awarded.
- In some cases a state, local, or tribal law allows for the waiver of procurement requirements when an emergency is declared; however, those laws only allow for the waiver of the applicable state, local, or tribal procurement rules. An applicant must still abide by the Federal procurement standards under 2 C.F.R. sections 200.317 through 326.

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

Procurement Contracts Exigency or Emergency (E&E) Circumstances

- **Conduct cost or price analysis**
- **Include bonding requirements**
- **Include required contract clauses**
- **Follow T&M contract requirements if applicable**
- **NOT enter into CPPC contracts. They are prohibited**
- **Award contract to a responsible contractor**
- **Follow documentation, oversight, conflict of interest requirements**

Contract Provisions Guide

Navigating Appendix II to Part 200—Contract Provisions
for Non-Federal Entity Contracts Under Federal Awards

Procurement Disaster Assistance Team (PDAT)
June 2021
(PI-207-21-0001)



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Non-state entities must comply with the following requirements even when exigent or emergency circumstances exist:

- 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)).
- 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).

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.

Non-state entities must comply with the following requirements even when exigent or emergency circumstances exist:

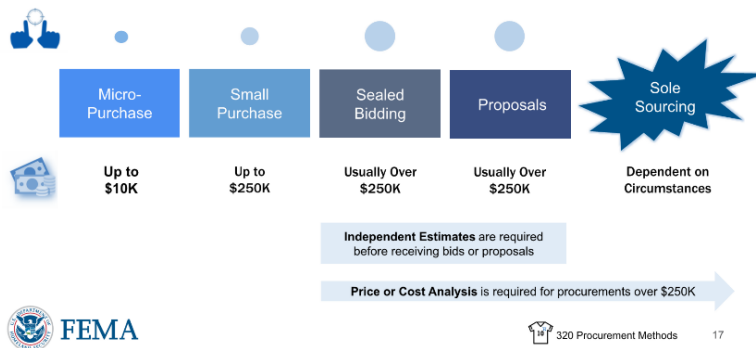
- Contracts must include the required contract clauses (2 C.F.R. § 200.326 & Appendix II) (also applicable to states).
- Use of time and materials contracts must comply with 2 C.F.R. § 200.318(j).
- The use of cost-plus-percentage-of-cost contracting is prohibited (2 C.F.R. § 200.323(c)).
- Contracts must be awarded to a responsible contractor (2 C.F.R. § 200.318(h)).
- 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.

Procurement

Methods of Procurement



***Slide information from K0705 Fundamentals of Grants Management Training, Emergency Management Institute (EMI) procurement presentation, November 2021.

Procurement – Top 10 Grant Mistakes

- 1) Restricting Full and Open Competition
- 2) Not Performing a Detailed Price or Cost Analysis for Procurements Above \$250,000
- 3) Improperly Engaging in Sole-sourcing (Non-competitive) Procurement
- 4) Continuing to Work under a Sole-source Contract After the Urgent Need Has Ended
- 5) Not Making and Documenting Efforts to Take All Socioeconomic "Affirmative" Steps
- 6) Improperly Awarding a "Time-and-materials" (T&M) Contract
- 7) Not including the Required Contract Clauses
- 8) Awarding a Prohibited "Cost-plus-percentage-of-cost" or "Percentage-of-construction-cost" Contract
- 9) Awarding a Contract to Contractors that Were Suspended or Debarred
- 10) Not Properly Documenting All Steps of a Procurement

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Virtual PDAT Training Scheduled for
December 7, 2021 @ 10 a.m.
(*Information Coming Soon*)

Report Fraud

FEMA award recipients and subrecipients are highly encouraged to report suspicious activities at any time during the procurement process by contacting:

The FEMA Fraud and Investigation Division

FEMA-OCISO-Tipline@fema.dhs.gov

Email: StopFEMAFraud@fema.dhs.gov

1-866-223-0814

The DHS OIG Hotline

<https://hotline.oig.dhs.gov/#step-1>

1-800-323-8603

FEMA Suspension and Debarment

Email: femas&d@fema.dhs.gov

**U.S. Department of Justice National
Center for Disaster Fraud**

[Complaint Form](#)

1-866-223-0814



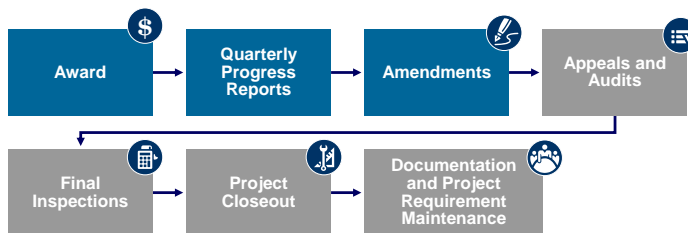
POST-AWARD GRANTS MANAGEMENT

MARISELA SHELLNBARGER, DEPUTY PUBLIC ASSISTANCE OFFICER

After a Subgrant is Awarded

After an initial subgrant has been awarded and obligated, FEMA will work with the Recipient and Applicant to:

- Ensure federal laws are followed with all documentation and process requirements, and
- Update project information as needed before the grants are closed.



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Post award activities:

- FORM - Quarterly project reports are required to be submitted to MSP/EMHSD PA staff for all large projects over \$132,800
 - A tool for FEMA and the State to track the progress of open Large Projects on a quarterly basis
- FORM - Any amendments (scope of work changes or time extensions) to projects must be requested through MSP/EMHSD
- Subrecipients have the right to appeal any FEMA determination related to an application for, or the provision of, assistance under the PA Program (see PAPPG, beginning on p 39 for information)
- Both Recipients and Subrecipients are subject to federal and nonfederal audits
- In some cases, inspections may be conducted by MSP/EMHSD to ensure scope of work completion
- The purpose of closeout is for the Applicant to certify that all work has been completed

Documentation and Record Keeping

Stafford Act Section 705 - Imposes a three (3) year limit on FEMA's authority to recover payments made to State, Tribal, or local government Recipients and Subrecipients unless there is evidence of fraud

- The Applicant must maintain all original documentation supporting project costs claimed.
- The Recipient and the Applicant must keep all financial and program documentation for 3 years after the date of the Recipient's final Financial Status Report (FSR).
- Records are subject to audit by State auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector General, and the U.S. Government Accountability Office.



FEMA





PUBLIC ASSISTANCE NEXT STEPS

TIFFANY VEDDER, PUBLIC ASSISTANCE OFFICER

FUTURE COMMUNICATIONS

After FEMA and MSP/EMHSD final project approval:

- FEMA obligates funds to MSP/EMHSD
- Grant agreement package emailed:
 - Grant Agreement
 - Risk Assessment Certification
 - Audit Certification and IRS W-9 Form
 - Quarterly Report Form



NEXT STEPS - APPLICANTS

- Submit Request for Public Assistance (RPA) in Grants Portal
 - ❖ **DEADLINE: December 10, 2021**
- FEMA Program Delivery Manager (PDMG) will conduct 1st Exploratory Call
- Recovery Scoping Meetings begin
- Virtual site inspections (if necessary for projects to be completed)
- Final approvals on projects

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- Site Inspections will be primarily virtual; however, significantly damaged sites may require onsite inspection. These will be determined on a site-by-site basis upon discussion with your FEMA PDMG.
- Large projects are reimbursed upon Applicant request for completed work; they are not automatic
- Small projects are reimbursed as soon as possible as the state receives the funds

NEXT STEPS – RECIPIENT

MSP/EMHSD:

- Participate with FEMA and Applicant to formulate, review and approve projects for obligation of funding
 - Prepare Grant Agreement packages for Subrecipient review and signature when FEMA obligates funding for projects
 - Work with Applicant to process any project amendments including scope changes, time extensions, etc.
 - Process reimbursements upon receipt of signed Grant Agreements and Project Completion and Certification Reports (P.4)
-

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FEMA PA Training/Resources

[FEMA PA Grants Portal - Grants Manager Channel - YouTube](#)

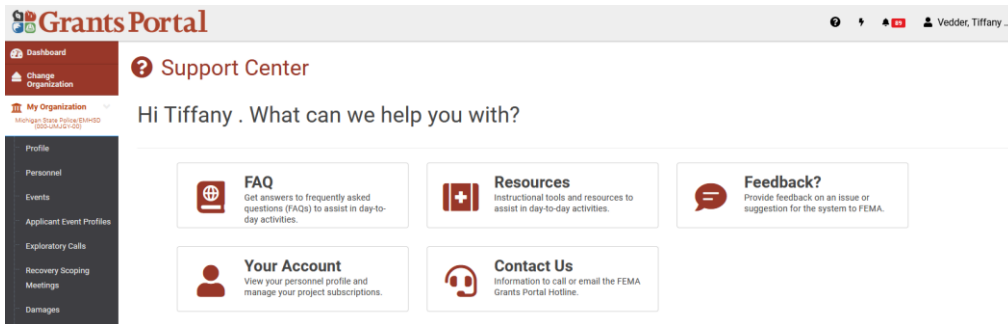


- Grants Portal inbox: **FEMA-Recovery-PA-Grants@fema.dhs.gov**
- Technical and training support at FEMA's PA Grants Portal Hotline: **[\(866\) 337-8448](tel:8663378448)**

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- FEMA PA Grants Portal Grants Manager YouTube Channel
- Grants Portal technical assistance – Email or call hotline

FEMA PA Training/Resources



- FEMA Public Assistance Training Section – SLTT Team weekly Recipient and Applicant Webinars – Posted online at MSP/EMHSD

FEMA Public Assistance Training Section - SLTT Team
Recipient and Applicant Webinars
Week of November 22 - 26, 2021

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- PDMG #1
- Grants Portal Support Center, click on ? in the upper righthand corner
- Applicant Grants Portal Users' Manual is a great resources for navigating Grants Portal; can be found under Resources
- Recipient and Applicant webinars are designed to train SLTT stakeholders but are open to all who want to learn about the PA grant process and the FEMA Grants Portal website that is used for PA grants. No preregistration is required. Sessions may be recorded and can be viewed

at your convenience on the FEMA Grants Portal – Grants Manager YouTube Channel or in the Support Center in Grants Portal.



Contact Information

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State Public Assistance Officer

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Cell: 517-599-5333

veddert@michigan.gov

Ms. Marisela Shellenbarger

Deputy Public Assistance Officer

Tel: 517-284-3949

Cell: 517-512-9676

shellenbarger@michigan.gov

❖ **Public Assistance Mailbox:** MSP-EMHSD-DisasterPA@Michigan.gov

❖ **MSP/EMHSD Online:** www.Michigan.gov/EMHSD

We look forward to working with you!