

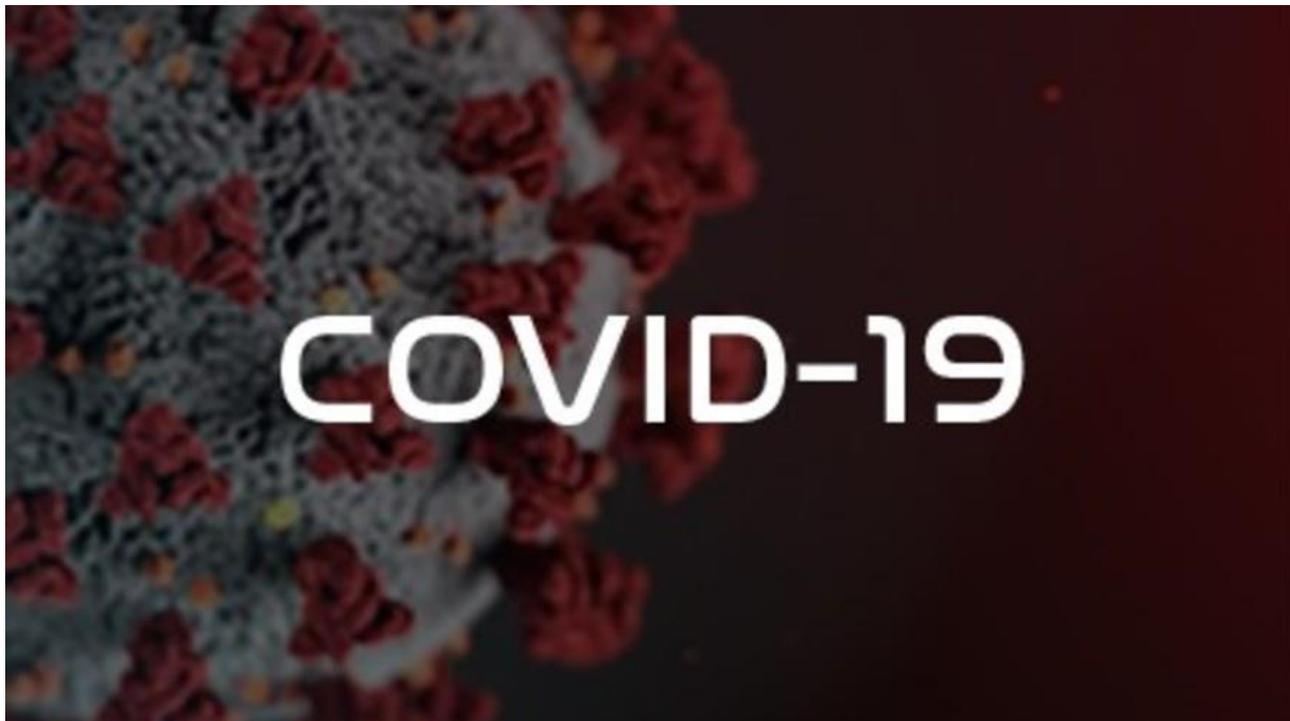


Homeland Security
and Emergency Services



FEMA

NYSAC: FEMA Public Assistance for COVID-19, DR-4480 Update





Stephen J. Acquario
Executive Director



NYSAC
— NEW YORK STATE —
ASSOCIATION OF COUNTIES

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Our Panelists:



**Homeland Security
and Emergency Services**



FEMA

DR-4480 (COVID-19)

Policy Updates

- **September 1, 2020:** FEMA published Interim FEMA Policy FP 104-009-19: *Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance.*
 - Posted on DHSES’s website.
 - Effective Date: September 15, 2020.
 - Interim Policy is *not retroactive.*
- **November 19, 2020:** FEMA published Vaccination Planning FAQ document
 - Posted on DHSES’s website.

DR-4480 (COVID-19)

Policy Updates

- **January 21, 2021:** Presidential *Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID-19 and to Increase Reimbursement and Other Assistance Provided to States*
 - Directs FEMA to make assistance available at 100% federal cost share for Category B of the Public Assistance program to provide for the safe opening and operation (including for PPE and disinfection costs) of:
 - eligible schools
 - child-care facilities,
 - health care facilities,
 - non-congregate sheltering,
 - domestic violence shelters,
 - transits systems,
 - and other eligible applicants
 - Effective Date: January 21, 2021 through September 30, 2021



DR-4480 (COVID-19)

Policy Updates

- **February 2, 2021:** White House Fact Sheet *President Biden Announces Increased Vaccine Supply, Initial Launch of the Federal Retail Pharmacy Program, and Expansion of FEMA Reimbursement to States*
 - Authorizes retroactive reimbursement to states at 100% federal cost share for FEMA-eligible services beginning January 20, 2020. Includes:
 - Masks
 - Gloves
 - Emergency Feeding Actions
 - Sheltering at risk populations



DR-4480 (COVID-19)

Policy Updates

- **February 2, 2021:** Presidential *Memorandum on Maximizing Assistance from the Federal Emergency Management Agency*
 - Directs FEMA to provide 100% federal cost share for work eligible for assistance under Public Assistance Category B, including costs associated with safe opening and operation of eligible schools, child-care facilities, healthcare facilities, non-congregate shelters, domestic violence shelters, transit systems
 - Effective: January 21, 2021, through September 30, 2021
 - Directs FEMA to provide 100 percent retroactive federal cost share for work eligible for assistance under Public Assistance Category B, except for the costs enumerated above.
 - Effective: January 20, 2020, through January 20, 2021

DR-4480 (COVID-19)

Policy Updates

- **February 3, 2021:** *FEMA Statement on 100% Cost Share*
- The President's directive (2/2/2021) allows FEMA to pay 100% federal funding for the costs of activities that have previously been determined eligible, from the beginning of the pandemic in January 20, 2020 to September 30, 2021.
 - This means that all work eligible under FEMA's existing COVID-19 policies, including increasing medical capacity, non-congregate sheltering, and emergency feeding distribution will be reimbursed at 100% federal share.
 - For projects that have already been approved, FEMA will amend the existing awards to adjust the federal funding amounts. No action will be required by the applicants.
- The directive allows FEMA to expand the activities eligible for reimbursement for work conducted after January 21, 2021 and until September 30, 2021.
 - Specifically, the costs to support the safe opening and operation of eligible schools, child-care facilities, healthcare facilities, non-congregate shelters, domestic violence shelters, transit systems, and other eligible applicants will be eligible after January 21, 2021.



DR-4480 (COVID-19) Policy Updates

- **The incident period remains open, and as of February 5, 2021, there are three periods governing the federal cost share and/or eligibility criteria for work performed related to DR-4480:**
 - January 20, 2020 through September 14, 2020
 - September 15, 2020 through January 20, 2021
 - On or after January 21, 2021



Eligibility



Eligible Work

- **Work Performed Must Be:**
 1. Required as a direct result of a declared emergency.
 2. Legal responsibility of an eligible Applicant performing the work.
 3. Located in a declared county.
 4. Completed within regulatory time limits.



Deadlines for Submitting Projects and Completing Eligible Work

- **Project Submittal Deadline**
 - Applicants have 60 days from the end of the National Health Emergency or approval of their RPA, whichever comes later, to submit their project templates into the FEMA Grants Portal
- **Work Completion Deadline**
 - Currently extended by FEMA *without end date*.
 - FEMA will provide notice before establishing a new deadline.
 - Check DHSES website for updates.

Emergency Work

Category B – Emergency Protective Measures

Actions taken before, during, and following a disaster to save lives, protect public health and safety, or eliminate immediate threat of significant damage to improved public and private property.

- **First major disaster for a medical emergency**
- **First instance of applying FEMA Emergency Protective Measures in a major disaster declaration for a pandemic response**
- **Discussions regarding eligible work activities and costs are still very much underway with FEMA**



Emergency Work

Category B – Emergency Protective Measures

Examples for COVID-19:

- ✓ EOC Operations
- ✓ Emergency Medical Care
- ✓ Medical sheltering
- ✓ Medical supplies & equipment
- ✓ Security and law enforcement for temporary facilities
- ✓ Communications of general health and safety information to the public



FEMA Policy Changes and Presidential Directives



FEMA Policy Guidance: Prior to September 15, 2020



Policy Guidance for Work Completed *Prior to September 15, 2020*

All previously published policy guidance remain in effect, including:

- Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures Fact Sheet (March 2020).
- Coronavirus (COVID-19) Pandemic: Medical Care Costs Eligible for Public Assistance (Interim), FEMA Policy FP 104-010-04 (May 9, 2020).
- Coronavirus (COVID-19) Pandemic: Alternate Care Site (ACS) “Warm Sites” Fact Sheet (May 12, 2020).
- Coronavirus (COVID-19) Pandemic: Emergency Medical Care, Fact Sheet dated March 30, 2020.
- Public Assistance: Non-Congregate Sheltering Delegation of Authority Fact Sheet (March 19, 2020) as clarified by Coronavirus (COVID-19) Pandemic: Non-Congregate Sheltering Frequently Asked Questions (March 31, 2020)
- Coronavirus (COVID-19) Pandemic: Purchase and Distribution of Food Eligible for Public Assistance, FEMA Policy FP 104-010-03 (April 11, 2020) as clarified in - Coronavirus (COVID-19) Pandemic Purchase and Distribution of Food Eligible for Public Assistance, FEMA ADVISORY (April 14, 2020).

FEMA Interim Policy Guidance

September 15, 2020



DR-4480 (COVID-19)

FEMA's Interim Policy - September 15, 2020

- **The Interim Policy governs work *performed on or after* its effective date of September 15, 2020**
- **For work completed prior to September 15, 2020, FEMA's prior interpretation of policy will still apply, regardless of whether the project is submitted before or after September 15, 2020.**
- **If a project contains work performed in multiple periods, the applicant should document those costs separately.**



Work Completed *on or after* September 15, 2020

- ***Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures Fact Sheet (March 2019).***
- **Only work associated with the performance of emergency protective measures specifically listed in FEMA Policy FP 104-009-19 Paragraph C.4 is eligible for PA in COVID-19-declared events. Specifically:**
 - Medical care, in accordance with COVID-19 specific policy or subsequent updates.
 - Purchase and distribution of food, in accordance with COVID-19 specific policy or subsequent updates.
 - Non-congregate medical sheltering, in accordance with COVID-19 specific policy or subsequent updates.
 - Operation of Emergency Operations Centers to direct and coordinate resources and response activities for COVID-19 declarations.

List continued on next slide...



Work Completed *on or after* September 15, 2020

- **Communications to disseminate public information regarding health and safety measures and provide warnings about risks and hazards.**
- **Mass casualty management, including storage of human remains and mass mortuary services, as necessary to manage fatalities caused by COVID-19.**

Work Completed *on or after* September 15, 2020

- **Purchase and distribution of Personal Protective Equipment (PPE) that is directly related to the performance of otherwise eligible emergency work, or is provided to healthcare workers, patients with confirmed or suspected COVID-19 infection, and first responders.**
 - Funding for stockpiling a supply of eligible PPE is limited to a supply that is projected for up to 60 days from date of purchase.
 - Funding for storing eligible PPE is limited to what is necessary to store a projected 60-day PPE supply.



Work Completed *on or after* September 15, 2020

Eligibility of certain costs is limited to persons performing eligible emergency work and/or in a facility where eligible emergency work is performed:

- Face masks, including cloth facial coverings.
- Temperature scanning
- Disinfection per CDC guidance in excess of current operating costs
- Temporary physical barriers
- Law enforcement/security
- Training and technical assistance
- Movement, transportation and storage of equipment and supplies



Ineligible Costs *on or after* September 15, 2020

The following costs remain ineligible for reimbursement through FEMA's Public Assistance Program:

- Increased operating costs, including costs associated with remote working, education and healthcare.
- Loss of revenue, income or donations.
- Costs associated with contact tracing.
- Costs of employees quarantined or out sick.
- Costs of re-opening facilities that closed due to pandemic or scheduled closures such as schools.

What are the impacts of FEMA's Interim Policy?

- **FEMA's Interim Policy restricts eligibility of previously eligible work and materials/supplies**
 - **Disinfecting**
 - Only eligible for reimbursement through Public Assistance in medical care, medical sheltering, and other eligible emergency services settings
 - **PPE**
 - PPE will only be eligible for reimbursement through Public Assistance when necessary to conduct other eligible emergency work, including PPE for healthcare workers, patients with confirmed or suspected COVID-19 infection, and first responders

What are the impacts of FEMA's Interim Policy?

- **FEMA's original policy/guidance allowed for broad reimbursement of cleaning/disinfecting and PPE for all applicants**
- **Policy change impacts nearly all applicants**
 - Schools, Houses of Worship, transit authorities, and non-medical Private Non-profits (PNP's) will be particularly heavily impacted as most DR-4480 projects for these applicants are solely for PPE and Disinfecting



Presidential Directives



Presidential Memorandum

January 21, 2021

- **January Executive Memorandum provides for the safe opening and operation of:**
 - eligible schools,
 - child-care facilities,
 - health care facilities,
 - non-congregate sheltering,
 - domestic violence shelters,
 - transits systems,
 - and other eligible applicants



Presidential Memorandum

January 21, 2021

- **Indicates that such assistance may include funding for the provision of**
 - PPE
 - Disinfecting Services and Supplies
- **Directs FEMA to make assistance available at 100% federal cost share until September 30, 2021.**

White House Fact Sheet

February 2, 2021

- **Restates President Biden's direction to FEMA to fully reimburse states for the cost of National Guard Personnel and Emergency Work**
 - Authorizes retroactive reimbursement to states at 100% federal cost share for FEMA-eligible services beginning January 20, 2020. Includes:
 - Masks
 - Gloves
 - Emergency Feeding Actions
 - Sheltering at risk populations



Presidential Memorandum

February 2, 2021

- **President Biden authorizes retroactive reimbursement at 100% federal cost share for Category B**
 - Directs FEMA to provide 100 percent federal cost share for work eligible for assistance under Public Assistance Category B, including costs associated with safe opening and operation of eligible schools, child-care facilities, healthcare facilities, non-congregate shelters, domestic violence shelters, transit systems and other eligible applicants.
 - Effective: January 21, 2021, through September 30, 2021
 - Directs FEMA to provide 100 percent retroactive federal cost share for work eligible for assistance under Public Assistance Category B, except for the costs enumerated above.
 - Effective: January 20, 2020, through January 20, 2021



Presidential Memoranda: FEMA Statement

- **February 3, 2021:** *FEMA Statement on 100% Cost Share*
- The President's directive (2/2/2021) allows FEMA to pay 100% federal funding for the costs of activities that have previously been determined eligible, from the beginning of the pandemic in January 20, 2020 to September 30, 2021.
 - This means that all work eligible under FEMA's existing COVID-19 policies, including increasing medical capacity, non-congregate sheltering, and emergency feeding distribution will be reimbursed at 100% federal share.
 - For projects that have already been approved, FEMA will amend the existing awards to adjust the federal funding amounts. No action will be required by the applicants.
- The directive allows FEMA to expand the activities eligible for reimbursement for work conducted after January 21, 2021 and until September 30, 2021.
 - Specifically, the costs to support the safe opening and operation of eligible schools, child-care facilities, healthcare facilities, non-congregate shelters, domestic violence shelters, transit systems, and other eligible applicants will be eligible after January 21, 2021.



Presidential Guidance: FEMA Guidance as of February 5, 2021

- **The State awaits updated policy guidance from FEMA regarding implementation of the Presidential Memoranda**
 - *What we know:*
 - FEMA will issue an amended COVID-19 policy to implement this directive in the coming days
 - FEMA advises the 100% federal cost share for eligible work under Category B is limited to vaccination work beginning on January 21, 2021
 - *What we don't yet know:*
 - How the 100% federal cost share will be applied to eligible work categories under Category B -- both retroactively and as of January 21, 2021
 - Whether the Interim Policy effective September 15, 2021 will be rescinded
 - When an updated medical care/vaccination policy will be updated

Disaster-Specific Guidance Detail



DR-4480 (COVID-19)

Guidance Related to Documentation

- **If a project contains work performed in multiple periods, we advise applicants to document those costs separately.**
 - January 20, 2020 through September 14, 2020
 - September 15, 2020 through January 20, 2021
 - On or after January 21, 2021



Documentation

For all projects, FEMA will scrutinize the applicant's documentation of:

- Specific Public Health Guidance the applicant followed in incurring cost.
- Applicant's decision-making process in evaluating courses of action and associated costs.
- Chain of custody for distributed supplies, materials, and equipment
- Disposition of supplies, materials, and equipment



DR-4480 Specific Emergency Work Policy Guidance

- FEMA released disaster-specific policies and guidance regarding the Public Assistance program eligibility of several important COVID-19 response and recovery efforts:
 - Medical Care
 - Vaccination Planning
 - Warm Sites (Alternate Care Sites that are kept minimally operational but need to remain ready and available for future COVID 19 response)
 - Non-Congregate Sheltering
 - Food Purchase and Delivery
- Information on each of these are in the following slides

Medical Care: COVID-19 Testing

Community Based Testing

- Community-Based Testing Sites (“testing sites”) are strategically located sites within a community operated by the State, local or tribal governmental entity for the purpose of providing COVID-19 testing to members of the community.
- State, local, and tribal governmental entities legally responsible for ensuring public health and safety are eligible applicants under FEMA’s PA program for eligible work, including COVID-19 testing.

Medical Care: COVID-19 Testing

Eligible Work and Costs for COVID-19 Testing Sites through the FEMA PA Program

- Costs must be reasonable and necessary based on the actual or projected need. Eligible costs for COVID-19 testing include, but are not limited to:
 - Purchase and delivery of PPE and consumable medical supplies (testing supplies) necessary for COVID-19 testing;
 - Medical waste disposal related to COVID-19 testing;
 - Certain labor costs associated with medical staff providing COVID-19 testing; and
 - Additional eligible cost categories for testing sites, including but not limited to, lease, purchase or construction costs, mobilization and demobilization costs, and certain operating and maintenance costs.

Medical Care:

Primary Medical Care Facilities

Primary Medical Care

- For medical care provided in a primary medical care facility (i.e. Hospitals), work must be directly related to the treatment of COVID-19 patients.
- Work may include both emergency and inpatient treatment of COVID-19 patients; this includes both confirmed and suspected cases of COVID-19.
- Medical care related to treatment of a non-COVID-19 illness or injury in a primary medical care facility is not eligible.
- FEMA Policy FP 104-010-04 *Coronavirus (COVID-19) Pandemic: Medical Care Costs Eligible for Public Assistance* is posted on the DHSES website at <http://www.dhses.ny.gov/recovery/public/active-declarations.cfm>



Medical Care:

Primary Medical Care

The following medical care activities and associated costs are eligible in primary medical care facilities:

- Emergency and inpatient clinical care for COVID-19 patients.
- Purchase, lease, and delivery of specialized medical equipment necessary to respond to COVID-19
- Purchase and delivery of PPE, durable medical equipment, and consumable medical supplies necessary to respond to COVID-19 including the costs of eligible SLT government Applicants providing PPE to any public or private medical care facility that treats COVID-19 patients.
- Medical waste disposal related to COVID-19.



Medical Care: Temporary and Expanded Medical Facilities

- FEMA may approve work and costs associated with temporary medical facilities or expanded medical facilities when necessary in response to the COVID-19 Public Health Emergency.
- These facilities may be used to treat COVID-19 patients, non-COVID-19 patients, or both, as necessary.
- Medical care activities and associated costs related to treating both COVID-19 and non-COVID-19 patients in a temporary or expanded medical facility may be eligible.



Vaccination Planning

- On November 19, 2020, FEMA published its *COVID-19 Pandemic: Vaccination Planning FAQ*.
- A revised Medical Care Policy to be issued by FEMA (specifically addressing eligibility related to vaccination work). Timing TBD.
- Check the DHSES website periodically for updates.

Vaccination Planning

Through Operation Warp Speed, the federal government is planning to deliver authorized COVID-19 vaccines to Americans as expeditiously as possible.

The Federal Emergency Management Agency (FEMA) is also able to provide supplemental funding through the Public Assistance (PA) Program for eligible work and associated costs when necessary for the distribution and administration of COVID-19 vaccines.

COVID-19 vaccines will be procured and distributed by the Federal government at no cost to enrolled COVID-19 vaccine providers. The vaccine will be administered primarily through established healthcare systems and distribution points approved by Operation Warp Speed.

Vaccination Planning

The cost for vaccine administration will be covered by private and public healthcare providers, most insurance, TRICARE, Medicare, Medicaid, the Children's Health Insurance Program (CHIP), and/or other HHS funding sources.

Healthcare providers may be reimbursed for administering COVID-19 vaccines to uninsured individuals through HHS's COVID-19 Uninsured Program.

Vaccine providers will be able to charge an administration fee to the program or entity providing reimbursement for COVID-19 vaccines.

Vaccination Planning

Work and associated costs to support the distribution and administration of COVID-19 vaccines may be eligible for PA.

The work and associated costs must be in accordance with PA program eligibility requirements as outlined in the Public Assistance Program and Policy Guide (PAPPG).

For example, costs covered by another source of federal funding or insurance are not eligible for PA.

The cost of the vaccine itself will be covered by the Federal government and Operation Warp Speed is providing vaccination kits with supplies to support the administration of the vaccine.

Vaccination Planning

The vaccine will be made available through established healthcare delivery and reimbursement systems and HHS has established mechanisms and program funding to support the COVID-19 vaccination effort.

There may be additional costs incurred by SLTTs to support the distribution and administration of the vaccine. Such costs may be eligible for PA funding when they are necessary to effectively distribute and administer COVID-19 vaccines consistent with CDC guidance and PA program requirements.



Vaccination Planning: Eligible Work and Costs

Examples of eligible work and costs under FEMA PA include, but are not limited to:

- Personal protective equipment (PPE), other equipment, and supplies required for storing, handling, distributing/transporting, and administering COVID-19 vaccines.
- Facility support costs, including leasing space for storage and/or administration of vaccines, utilities, maintenance, and security.
- Additional staff if necessary, including medical and support staff not paid for by another funding source, consistent with FEMA PA labor policies.



Vaccination Planning: Eligible Work and Costs

- Onsite infection control measures including PPE for staff as well as cloth face coverings for patients, temperature scanners, physical barriers (e.g., plexiglass dividers), and disinfection of the facility in accordance with CDC guidance.
- Emergency medical care associated with vaccine administration (e.g., to address allergic reactions to the vaccine or other emergency medical needs that arise in the administration of the vaccine).
- Medical waste disposal.
- Communications to disseminate public information regarding vaccinations.

Vaccination Planning: Other Sources of Federal Funding

Eligibility among various programs of Federal assistance depends on the specific statutory and regulatory provisions and criteria that apply to each program. In some cases, there may be overlap among programs regarding what is eligible.

FEMA will allow costs that are eligible under PA that are also eligible under other Federal programs as long as funding for the same item of work and associated costs is not provided by another source of Federal funding, insurance, or any other funding source.

Vaccination Planning: Other Sources of Federal Funding

Costs for administering the vaccine to individuals may be covered by other mechanisms, including health insurance, TRICARE, Medicare, Medicaid, and other HHS funding sources for uninsured individuals (i.e., HHS COVID-19 Uninsured Program).

Applicants should follow their normal billing practices and must certify that they have not received and do not anticipate receiving assistance from these sources or any other source for the same work or costs.

Vaccination Reimbursement and Expedited Funding Option

- **The State awaits updated guidance from FEMA on eligible work related to vaccination administration and distribution.**
- **FEMA advises eligible vaccination work will be supported by 100% federal cost share beginning on January 21, 2021.**
- **FEMA also advises expedited funding may be made available to applicants for this purpose.**
 - Advance payment under this option requires a funding agreement between the applicant and the grantee.

Alternate Care Sites (ACS) Warm Sites

- FEMA may approve work and costs associated with maintaining minimal operational readiness at ACS facilities when necessary in response to the COVID-19 Public Health Emergency.
- Public health experts have warned of the potential for a second wave of COVID-19 cases, the severity and timing of which are uncertain.
- ACS facilities that are unused but remain operationally ready and available for potential medical surge capacity for COVID-19 response are referred to as “warm sites.”

Alternate Care Sites (ACS) – Warm Sites: Work to eliminate or lessen an immediate threat

- FEMA has the authority to provide funding for activities that eliminate or lessen immediate threats to lives, public health, or safety, such as operating an ACS facility.
- To determine whether work related to ACS warm sites is necessary to eliminate or lessen an immediate threat, FEMA may consider State, Local, territorial or Tribal (SLTT) assessments of need based on:
 - Public health guidance, including the continued declaration of a Public Health Emergency by the U.S. HHS
 - Whether the ACS facility is strategically located for areas projected to be most impacted by a resurgence; and
 - SLTT hospital bed capacity relative to the projected need.



Alternate Care Sites (ACS) – Warm Sites: Work to eliminate or lessen an immediate threat

- FEMA Region II will work with DHSES to:
 - Identify ACS warm sites based on SLTT projections of need as supported by predictive modeling or other supporting information and in accordance with federal, state, and/or local public health guidance;
 - Provide support for ACS warm sites to either suspend medical care activities while maintaining minimal operational readiness for future rapid activation, or to demobilize the ACS and store necessary medical equipment and supplies for future rapid activation; and/or
 - Reduce excess capacity by demobilizing and closing ACS facilities that are no longer in use and not anticipated to be required in future planning scenarios based on the projected needs.

FEMA Approved Non-Congregate Sheltering Plan

New York's statewide NCS plan identifies several target populations for non-congregate sheltering:

- COVID-19 positive individuals requiring isolation but not hospitalization and who:
 - Do not have an appropriate home setting, or
 - Have a medically vulnerable individual in the home setting where they would otherwise be isolated
- Individuals who have been exposed to COVID-19, including those individuals identified as part of contact tracing efforts within New York State, who do not have an appropriate home setting for isolation.
- Healthcare providers and emergency responders interacting with presumptive or confirmed positive COVID-19 patients in an occupational setting, to include testing sites
- Individuals that are or were supported by a congregate care shelter facility, to include:
 - Homeless persons
 - Domestic violence survivors
 - Elder abuse survivors

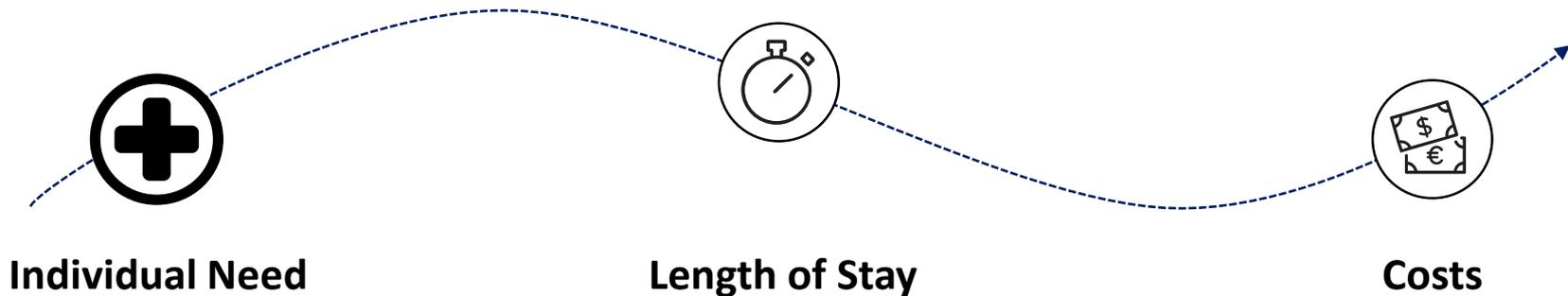
FEMA Approved Non-Congregate Sheltering Plan

- The State plan was initially approved by FEMA until May 10, 2020 and has been renewed several times.
- On December 16, 2020, FEMA issued the *Update to Non-Congregate Sheltering Delegation of Authority Public Assistance Program and Policy Guide Waiver* memo eliminating the time extension request provision. NYS must submit specific information associated with each non-congregate sheltering program being implemented in the state of New York every thirty days.
- The legally responsible governmental entities for the NCS populations would be the Applicant for the reimbursement of eligible costs.
- PNPs utilizing NCS will have to seek reimbursement through the legally responsible governmental entity for the eligible population.
 - In most instances, the governmental entity that provides any other type of funding to the PNP could be the Applicant.
 - If a direct contractual relationship with a legally responsible governmental entity does not exist, a contract would need to be in place prior to seeking reimbursement.



Eligibility of Costs:

Requests for Non-Congregate Sheltering require that a tracking mechanism be established to demonstrate eligibility of cost reimbursement, with the following information:



Tracking mechanisms should not disclose personally identifiable information protected by the Privacy Act

Purchase and Distribution of Food Eligible for Public Assistance - Overview

- **Background:**

- Due to the impacts of COVID-19, it may be necessary to provide food in certain areas to meet the immediate needs of those who do not have access and to protect the public from the spread of the virus

- **Principles:**

- FEMA will provide flexibility to applicants to protect the health and safety of impacted through the purchase and distribution of food
- FEMA will responsibly implement this policy and any assistance through informed decision-making and accountable documentation
- FEMA will engage with interagency partners, including the U.S. Department of Agriculture (USDA), the U.S. Department of Health and Human Services (HHS), and U.S. Department of Housing and Urban Development (HUD), to ensure this assistance does not duplicate other available assistance

Full FEMA Policy can be found [here](#)



FEMA PA Purchase and Distribution of Food Policy - Time Limitations and Legal Responsibility

- **Time Limitations:**

- FEMA may provide funding for an initial 30-day time period.
- SLTT governments may request a 30-day time extension from the Regional Administrator (RA) with documentation showing continued need.
- Work may not extend beyond the duration of the COVID-19 Public Health Emergency, as determined by HHS.

- **Legal Responsibility:**

- To be eligible, an item of work must be the legal responsibility of an eligible applicant.
- Legally responsible SLTT governments may enter into formal agreements with private organizations to purchase and distribute food.
- In these cases, PA funding is provided to the legally responsible government entity
 - These entities would then reimburse the private organization for the cost of providing those services under the agreement or contract

FEMA PA Purchase and Distribution of Food Policy - Work Eligibility

- **Eligible Work:**
 - Purchasing, packaging, and/or preparing food, including food commodities, fresh foods, shelf-stable food products, and prepared meals
 - Delivering food when conditions constitute a level of severity that food is not easily accessible for purchase
 - Leasing distribution and storage space, vehicles, and necessary equipment
- **Indicators Demonstrating Need:**
 - Reduced mobility of people in need due to government-imposed restrictions, including “stay-at-home” orders
 - Marked increase or atypical demand for feeding resources
 - Disruptions to the typical food supply chain within a given jurisdiction
- **Impacted Populations:**
 - Those who test positive for COVID-19 or have been exposed to COVID-19, but who do not require hospitalization
 - High-risk individuals, such as people over 65 or with certain underlying health conditions

Eligible Costs

Eligible Costs:

- Labor
- Equipment/Materials
- Contracts
- Management Costs

Costs Must Be:

- Reasonable and necessary to accomplish the work.
- Compliant with Federal, State AND Local procurement requirements.
- Reduced by any applicable credits such as insurance and other funding sources.



Force Account Labor

- **Employee Annual Salary or Hourly Rates Plus Fringe Benefits**
- **Under Emergency Protective Measures (Category B):**
 - Permanent employees are only eligible for overtime while performing eligible work.
 - Temporary employees are eligible for both regular time and overtime while performing eligible work.
- **Documentation Required**



Force Account Equipment

Must be using equipment in the performance of eligible work:

- Auto/Truck – mileage or hourly rate
- Other equipment - hourly rate
- Intermittent Use:
 - Half day or more = Full Day
 - Less than half day = Actual Hours



Equipment Rates

- FEMA equipment rates are used for determining project costs (estimating & comparing).
- Local rates or rental costs can be used if different than FEMA and established prior to the disaster.



Force Account Materials

- Purchased or used from stock.
- Used for eligible work.
- Invoices, historical data, or quotes from your local vendors will be required to justify cost.



Documentation Requirements: Equipment and Materials

FEMA will scrutinize the applicant's documentation of:

- Adherence to procurement requirements; including reasonableness of cost and how the item was procured, if applicable.
- Invoices and proof of payment, if applicable.
- Shipping information, if applicable.
- Asset distribution of all locations (e.g. Staging areas, stock piles, storage).
- Usage in the performance of eligible work.

Rule of thumb: document, document, document



Tracking and Disposition of Materials

- At the end of the Public Health Emergency, applicants must account for any unused materials funded by FEMA.
- If the market value of all unused materials combined exceeds \$5,000, that market value must be deducted from eligible costs on that project.
- FEMA will accept the Applicant's certification regarding unused materials to close the project, but the Applicant will be required to produce tracking records in the event of an audit.



Donated Resources

Volunteer Labor:

- Rate is the same as either similar paid employees within an applicant's organization or, if none, similar work done by a local paid organization. Can also use FEMA rate established for the Disaster.
- Value of Volunteer Labor = (Determined Labor Rate) * (Number of Volunteer Hours).

Donated Resources:

- Credit towards the total local cost share of Emergency work; rate is determined by local rates (if established) or FEMA equipment rates.
- Value of Donated Resources = (Determined Equipment Rate) * (Number of Equipment Hours).
- Materials costs based on local quotes.



Contracts and Procurement



Procurement

Must comply with ALL federal, state, and local procurement requirements:

- DHS OIG Audits are paying particular attention to ensuring Minority and Women Owned Businesses are actively solicited during bid process (follow link to locate MWBE enterprises: <http://esd.ny.gov/mwbe.html>)
- Applicants must comply with 2 CFR Part 200. Specifically, all contracts must include the contract provisions identified in Appendix II to Part 200. 2 CFR, OMB Circular A-87, A-102, A-133 and 41 U.S.C. 403(11) all provide guidance on procurement and audits.
- Declaring or extending a State of Emergency solely to circumvent procurement procedures is a red flag for any audit.

Contracts

- Must comply with all State, Local and Federal procurement requirements.
- All contracts incurred for eligible work will be reviewed by FEMA / State teams; including rental equipment.
- Competitively bid under applicable procurement procedures are preferred.
- For purchases of equipment, supplies and materials, you will need to track and document inventory and usage to comply with disposition requirements at closeout.

Types of Contracts



Lump Sum:

- Easy to monitor when the scope of work is well defined.
- Requires minimum labor for monitoring.
- Quantities do not have to be documented.



Time and Materials:

- Should only be used for Emergency “hot spots”
- MUST have a cap
- MUST be monitored

Ineligible Contracts

Examples:

- Cost-plus percentage of cost.
- Contingent upon FEMA reimbursement.
- Contract with a debarred contractor:
 - <http://www.labor.ny.gov/workerprotection/publicwork/PDFs/debarred.pdf>



Women/Minority Owned Businesses

- Applicants must be able to demonstrate direct outreach to MWBE enterprises. (Effective 1/1/2015).
- DHS OIG Audits will ensure Minority and Women Owned Businesses are sought during bid process.
- Procurement and Audit Guidance:
 - 2 CFR
 - OMB Circular A-87, A-102, A-133
 - 41 U.S.C. 403 (11)
 - <http://esd.ny.gov/mwbe.html>



Management Costs (Category Z)

- Direct and indirect administrative costs incurred to submit and process your FEMA Category B project(s).
- Actual Costs must be fully documented.
- Capped at a maximum of 5% of the Applicant's total obligated Category B project costs.



Management Costs (Category Z)

- Required to manage projects administratively.
- Do not include costs incurred for actual work to complete a project.

- **Eligible Costs Include:**
 - Site identification
 - Gathering of cost information
 - Site visits
 - Project scope, development
 - Project reporting
 - Project cost reconciliation and closeout
 - Preliminary Damage Assessments
 - Applicant's Briefings
 - Recovery Scoping Meetings
 - Recovery Transition Briefings
 - Travel Costs
 - Consultant Costs



Special Considerations

Key Focus Areas:

1. Insurance – Normally, Emergency Work is not covered by standard Insurance Policies. However, FEMA will want documentation to show that any applicable insurance coverage was pursued.
2. Duplication of benefits – Federal and State funds received to combat the virus will have to be deducted from any eligible project if used for any portion of that project.



Projects



Project Facts Applicants Need To Know

- Federal Share for this Disaster: **initially authorized at 75%, awaiting guidance on how 100% will be applied**
- How Projects Qualify:
 - Minimum Threshold = **\$3,300**
 - Small Projects = **Under \$131,100**
 - Large Projects = **\$131,100 and Over**



Small vs. Large Projects

- **Small Projects (Under \$131,100):**
 - Written on estimates or actual costs if available.
 - Paid when project is obligated by FEMA (100% of the Federal Share).
 - Submit P4 (Project Completion Form) to DAM as soon as you complete the project.
- **Large Projects (\$131,100 and Over):**
 - Written on estimates or actual costs if available.
 - Paid Federal Share at % validated complete when project is obligated.
 - Progress Payments (Approved by NYS) can be requested.
 - Quarterly Report requirement until project is closed.
 - Submit P4 (Project Completion Form) to DAM as soon as you complete the project and DHSES will coordinate a Large Project Final Accounting for submission to FEMA.
 - Final Payment (Approved by FEMA) on actual eligible costs.

Formulation of Projects

- **NYS DHSES Disaster Assistance Representatives (DARs):**
 - Available to help develop scope of work and cost estimates.
 - Technical Specialists can assist with complex projects.
- **Technical Specialists:**
 - Hospitals
 - Schools
 - Insurance

Various Parts of Project

- **Basic Information** - Applicant, Location, Category of Work, etc.
- **Damage Description and Dimensions (DDD)** – What conditions did the virus cause?
- **Scope of Work (SOW)** – Actions to Protect lives and public safety in response to the virus.
- **Cost Estimate**
- **Attachments** - Documentation of Costs, Contracts, Proof of Payment etc.



Info Required for a Project

- List of Damages, Emergency Protective Measures undertaken.
- Insurance information.
- List of paid staff, regular and OT hours – dates and times.
- Fringe Benefits information.
- List of equipment used, hours of operation – dates and times, miles driven.
- List of materials and supplies purchased or used.
- Copies of any contracts used for this event.
- Procurement Policies and documentation of compliance.

Recovery Transition Meeting

- Final review with Applicant, FEMA and DHSES to ensure all damages have been captured and submitted.
- Informs applicants of number of projects being entered into system (Large vs. Small).
- Gives opportunity to review and correct projects before transition to your DHSES Disaster Assistance Manager (DAM).

Project Notification Folder

(AKA Applicant “Blue Book”)

- Sent when FEMA obligates a project:
 - More than one project may be included in a single Blue Folder!
- Includes a copy of the obligated Project.
 - Review carefully!
- Starts 60 Day time clock for appeal of the obligation.
- Includes the Project Completion Form (P-4) that needs to be signed and returned to NYS DHSES POC when work is completed. Applies to both Large and Small Projects.

Appeals

- Applicants may appeal ANY determination related to the Public Assistance process.
- Applicants have 60 days from the receipt of written notice from FEMA to appeal FEMA's determination.
- Notify your DHSES POC immediately if you intend to appeal.



Small Project Cost Overrun:

- All small projects are reviewed by FEMA (small project reconciliation)
- Overruns = obligation
- Underruns = de-obligation
- Must be submitted within 60 days of completion of last small project

Appeals

- **First Appeal** – FEMA Regional Administrator
- **Second Appeal** – FEMA Deputy Administrator for Recovery
- **Arbitration:**
 - Disasters declared after 1/1/2016.
 - Disputed amount exceeds \$500K (\$100k for rural areas with population less than 200k).
 - Applicant filed timely 1st Appeal and was denied or partially denied or FEMA has not rendered a decision within 180 days.
 - Request made directly to the Board.
 - Applicant may supplement the record of the first Appeal.
 - Counsel and expert witnesses allowed but not required.
 - Expenses, including Attorney fees, paid for by the party incurring the costs.



Funds Are Lost if Applicants Don't

1. **Ask** questions
2. **Obtain** FEMA *pre-approval* to change scope of work
3. **Follow** procurement procedures
4. **Follow** the Scope of Work in the Project
5. **Meet** PA program deadlines
6. **Keep** complete, clear and accurate records



Contacts and Additional Information



NYS DHSES Contact Information

Each County has an assigned Point of Contact to assist with project formulation and to liaise with FEMA

Recovery Section general contact information:

- 1220 Washington Ave, Bldg. 7A, 4th Floor Albany, NY 12242
- (518) 292-2293, Fax Number: (518) 322-4984
- www.dhSES.ny.gov
- <http://www.dhSES.ny.gov/recovery/public/active-declarations.cfm>

Additional Information

- Your FEMA/NYS Team (1st Point of Contact)
- DHSES Public Assistance COVID-19 Email:
 - dhSES PACOVID-19@dhSES.ny.gov
- NYS DHSES Applicant Handbook – Posted on DHSES website
- FEMA Grants Portal Website (<https://grantee.fema.gov>)
 - Resources Area Contains User Manual, Forms, and other Information
- NYS DHSES Website (www.dhSES.ny.gov)
- FEMA's Website (www.fema.gov)
- FEMA Public Assistance Program & Policy Guide Volume 3.1
- County Emergency Managers

Questions?



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CONTACT:

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