

**Bloomberg
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**COVID-19
LOCAL
RESPONSE
INITIATIVE**

**Prepared by Bloomberg
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DeLuca Advisory

Guidehouse

Kobre & Kim

Witt O'Brien's

COVID-19 MUNICIPAL RESOURCE GUIDE

**Bloomberg
Philanthropies**



**THE UNITED STATES
CONFERENCE OF MAYORS**

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Introduction

Through the US Conference of Mayors, Bloomberg Philanthropies is providing this COVID-19 Municipal Resource Guide to help cities maintain fiscal order and make the most of federal dollars in the midst of an unprecedented crisis. Section 1 of this document helps cities optimize access to all available federal aid/funding with an emphasis on the Federal Emergency Management Agency (FEMA); Section 2 outlines controls for tracking the funding to prevent fraud/waste of the federal aid and reimbursables for COVID-19 responses.

Money is already being disbursed rapidly and reimbursable expenditures are underway in cities across the country. Experiential guidance from experts and former FEMA officials in Section 1 provides insider advice on the federal funds that might be available to your cities. Section 2 of the Guide addresses the steps cities can take to establish necessary controls for record-keeping, expenditures, procurements, inventories, etc., in order to minimize fraud while maximizing the federal reimbursement process and ensuring every dollar goes to the public use for which it was intended.

The purpose of the Municipal Resource Guide is to serve as a manual for those tasked with the application, administration, and oversight of federal funds. It predicts, based on steep past experience, critical areas of risk and includes steps to mitigate those risks. We know your cities vary greatly in size and need; we know one size does not fit all when it comes to receiving, distributing, and accounting for the funds that are part of your respective response operations. We know federal rules and guidance are shifting as you navigate an unprecedented crisis. Cities should view this Guide as a flexible document to be tailored to their needs and circumstances.

Need: The federal government has and will continue to take steps to provide a significant amount of funding that will be directed to the front lines — municipalities — to help them procure much-needed supplies and resources, and provide financial and other assistance to their residents to address the effects of COVID-19. These steps include, among others, the passage

of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the activation of Federal Emergency Management Authority (FEMA) disaster relief programs, and similar programs overseen by the Department of Housing & Urban Development (HUD).¹ Local governments that may have limited experience dealing with disaster relief funding may find themselves having to quickly distribute millions of dollars to various suppliers, contractors, vendors, and other third parties with whom they likely have had little or no prior dealings, while also continuing to provide essential services. Even cities that *have* dealt with natural or other disasters have never faced anything on the scale of this crisis.

In addition, some municipalities will need to rapidly construct/convert space for medical use while increasing overtime, hazard, and other emergency-related pay for first responders and other personnel. Along with emergency procurements and high shipment volumes of supplies, these factors make it paramount for cities to establish controls at this juncture as part of their crisis management program. The desperate need for supplies often results in bad actors seizing opportunities to take advantage of the pool of relief resources available. They may assume that the government will overlook their misconduct in its focus on the crisis at hand. Moreover, municipalities, in acting as quickly as they must to protect the public, may not anticipate the records they will be called upon to provide when seeking reimbursements under disaster relief programs.

Officials have already expressed concerns about the risk of fraud, waste, and abuse, and have suggested agencies act sooner rather than later to establish controls. Based on past experience, federal representatives estimate at least 10% of the total aid — tens of millions of dollars — could be lost to fraud. News reports have highlighted schemes such as price gouging and the sale of sub-standard equipment, which not only constitute fraud, but also present a

¹ See *A Guide to COVID-19 Disaster Funding, How to Navigate the Funding Process*, issued by U.S. Senator Kirsten Gillibrand, 2020.

safety issue.² Sound fiscal monitoring practices will be critical to cities as they face enormous expenses combatting the pandemic.

Initiative: History has shown how fraud and waste can erode the purpose of federal funding relief and hamper reimbursements—for example, in the wake of Hurricane Katrina. Fortunately, history also shows how proactive steps and monitoring can pave the way for smooth FEMA reimbursements, such as in multiple jurisdictions following the 9/11 attacks. While Mayor of New York City, Michael Bloomberg led recovery efforts in the aftermath of the 9/11 attacks and Hurricane Sandy, making him very familiar with the federal aid/reimbursement process. That is why he had the presence of mind to announce the goal of this initiative, to help your cities get ahead of the curve as aid is rolled out in the form of funding and/or reimbursables. The contributors to this Municipal Resource Guide have helped hospital systems, cities, states, and federal government agencies in many types of urgent situations. Their experts and audit teams have helped strengthen control systems, and manage aid/funding in the midst of crisis. They will also facilitate virtual training sessions that the Conference can provide to mayors and other city officials, offering a deeper dive on best practices and lessons learned.

This document presents a framework and checklist for municipalities to consider as they apply for, receive, disburse, monitor, and report on funds received as part of the federal relief packages. It can help instill confidence and put your city on good footing when accounting for federal aid received and seeking reimbursements. These measures will allow you to address the crisis at hand, while knowing fiscal controls are in place.

² A man was arrested in New Jersey by the FBI on March 30, 2020, for defrauding the government and hatching a scheme to pay kickbacks in connection with the sale of COVID-19 test kits.

Section 1

COVID-19 Federal Aid Application and Funding Processes

Guidance on Accessing Federal Financial Assistance

Adam Freed, Principal, Bloomberg Associates

In Partnership With:

Witt O'Brien's

Section Contents

Click on a link below to jump to a topic within this section.

- **[THE BASICS OF THE FEMA APPLICATION AND FUNDING PROCESS](#)**
 - Breakdown of steps to apply for and receive FEMA assistance and the timelines for each step.

- **[ITEMS COVERED AND/OR ELIGIBLE FOR FEMA](#)**
 - Do's and Don't's in seeking FEMA funding for unconventional items related to a public health crisis response. To maximize FEMA funding, understanding what's allowable or sometimes eligible will help avoid compliance issues.

- **[KEY ELEMENTS YOU NEED TO KNOW ABOUT FEMA FUNDING](#)**
 - A brief primer on specific items you need to know about FEMA regulations, including general rules of thumb and procurement guidelines.

- **[CRITICAL ISSUES TO CONSIDER](#)**
 - Avoiding common pitfalls will reduce the administrative burden, lower the risk of funding being denied or clawed back, and expedite critical response and recovery activities.

- **[CONGRESSIONAL APPROPRIATIONS TO SUPPORT RESPONSE TO COVID-19](#)**
 - The three (3) recent legislative aid packages bring a number of resources to bear for COVID-19 response.

The basics of the FEMA application and funding process

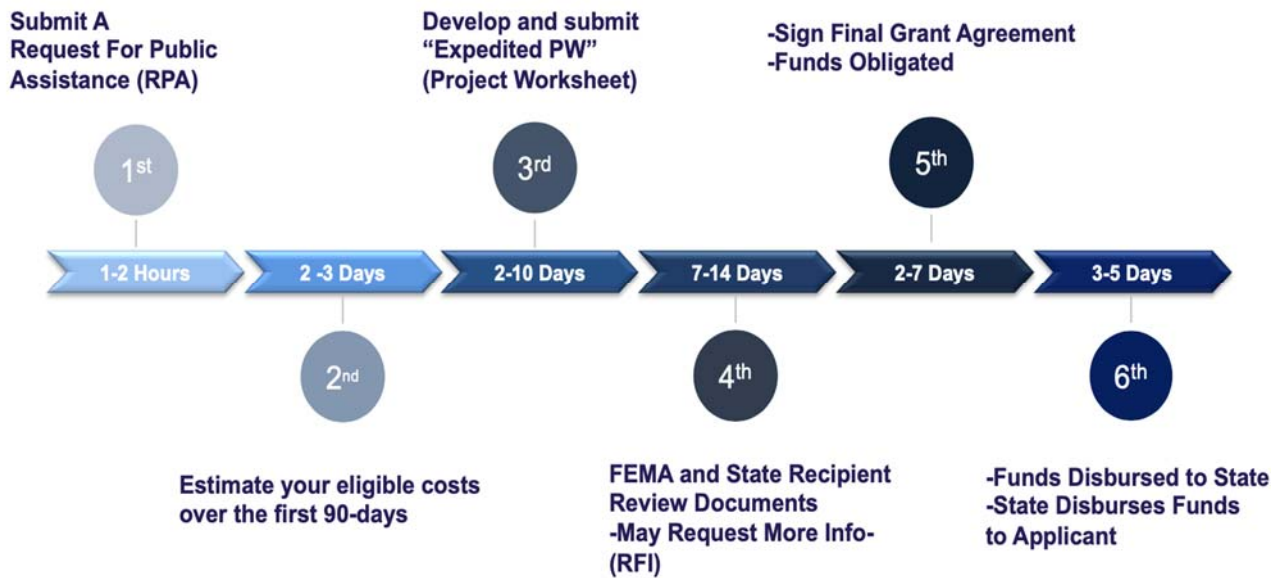
How long it takes to get FEMA assistance

On March 23, 2020, FEMA Public Assistance (PA) implemented an Expedited Funding Process for the COVID-19 emergency declarations that removes several steps in the typical PA application process. The simplified PA application process starts with your submission of a Request for Public Assistance (RPA). Cities (as “Applicants”) are empowered to drive their own recovery and directly apply for reimbursement without waiting for FEMA to assign a Program Delivery Manager. **You should submit your RPA as soon as possible to get it into the system. Also, coordinate your efforts with your state emergency management agencies to ensure their support and a smooth review process.**

Applicants can submit a RPA immediately using the following resources:

- [Request for Public Assistance \(Form 90-49\)](#)
- [FEMA Grants Portal](#)
- [FEMA – How to Submit RPA Training Video](#)

It is important to understand the sequence of events and who is responsible for each step. Knowledgeable and informed cities will achieve the shortest timelines if they use a linear process and avoid the need for resubmissions and delays. **Given the volume of RPAs that will be filed with FEMA, it will likely take 30 days or more for applications to get through the system — even with an expedited process.** The figure below provides a breakdown of this process.



Ways to Speed Up the Process

While the number of process steps is unlikely to be reduced further, the time associated with each step can be minimized. Understanding the program, managing the process, anticipating the next steps, gathering the right documents and information will pay off.

- As part of your emergency response planning, provide clear descriptions of actions that will be taken to protect the public and detailed estimates for FEMA validation.
- Develop an estimate for eligible costs to date and expected costs by type for the next 60-90 days.
- Request an expedited Project Worksheet (PW) for up to 50% of the total approved project value. A PW should describe the set of emergency circumstances, and detail a scope of work and cost estimate.
- Throughout every step in the application process, establish and document a clear link between the emergency needs, the scope, and likely costs to be incurred.
- As you seek federal reimbursement from various programs and agencies, remember that every federal agency has their own program terms, conditions, requirements, and

vocabulary; it is important to understand these differences early to avoid challenges after actions have been taken.³



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Fundamentally, for FEMA funding there is no difference between a Disaster Declaration and the National Emergency Declaration – you can file a RPA even if your state has not issued a Major Emergency Declaration (MED), although most states have issued a MED. However, \$25 Billion of the CARES Act Disaster Recovery Fund allocation to DHS was reserved for Major Disaster Declared Areas.

Items covered by and/or eligible under FEMA

Under the President's national emergency declaration for the COVID-19 pandemic on March 13, 2020, FEMA may provide assistance for **Emergency Protective Measures** (Category B under Public Assistance)⁴ including, but not limited to, the activities listed on the following page, as long as they are not already funded by the HHS/CDC.⁵ FEMA assistance will be provided at a 75% federal cost share; HHS/CDC funding cannot be used to pay the 25% local share. See page 19 for a deeper discussion on local cost shares.

³ You may wish to add to your team, a firm(s) with prior FEMA experience, to ensure submissions are in the correct format, use the right terminology, contain only eligible items, and meet delineated deadlines. The cost of these consultants can be covered by FEMA as part of your city's reimbursement.

⁴ See FEMA's Emergency Protective Measures (Category B), in Public Assistance Program and Policy Guide dated April 2018. Available at https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf

⁵ See CDC Interim Guidance on Funding, issued March 15, 2020. Available at https://www.cdc.gov/cpr/readiness/00_docs/CDC-RFA-TP18-1802_Sup-Guid-COVID-19-Crisis-CoAg_Supplemental.pdf

Although the National Emergency Declaration was issued in March, activities related to COVID-19 response incurred after January 20, 2020 may be eligible for federal assistance and/or reimbursement.

The following **activities** are eligible expenses under FEMA PA Category B:

- **Management, control and reduction of immediate threats to public health and safety**
 - Emergency Operation Center costs
 - Training specific to the declared event
 - Disinfection of eligible public facilities
 - Technical assistance to state, tribal, territorial, or local governments on emergency management and control of immediate threats to public health and safety

- **Emergency medical care**
 - Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility
 - Related medical facility services and supplies
 - Temporary medical facilities and/or enhanced medical/hospital capacity (for treatment when existing facilities are reasonably forecasted to become overloaded in the near term and cannot accommodate the patient load or to quarantine potentially infected persons)
 - Use of specialized medical equipment
 - Medical waste disposal
 - Emergency medical transport

- **Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)**
 - All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC and must be implemented in a manner that incorporates social distancing measures
 - Non-congregate medical sheltering is subject to prior approval by FEMA and is limited to that which is reasonable and necessary to address the public health needs of the event, is pursuant to the direction of appropriate public health officials and does not extend beyond the duration of the Public Health Emergency.

- **Household pet sheltering and containment actions related to household pets in accordance with CDC guidelines**
- **Purchase and distribution of food, water, ice, medicine, and other consumable supplies, to include personal protective equipment and hazardous material suits movement of supplies and persons**
- **Security and law enforcement**
- **Communications of general health and safety information to the public**
- **Search and rescue to locate and recover members of the population requiring assistance**
- **Reimbursement for state, tribe, territory and/or local government force account overtime costs**

Reimbursable vs. non-reimbursable expenses

The following section provides a brief description of eight (8) core **expenses** you are likely to incur in response to this emergency, and whether or not they are FEMA-reimbursable. The eight core expenses include:

1. Business Related & Operating Expenses
2. Temporary Facilities & Operating Costs
3. Staff Time & Administrative Costs
4. Purchasing Consumable Items & Supplies
5. Personal Protective Equipment, New Equipment, & Related Services
6. Coordination, Communication, Information Sharing & Emergency Operation Center Costs
7. Emergency & Public Transportation Costs
8. Social Distancing & Quarantine Enforcement Measures

1. BUSINESS RELATED & OPERATING EXPENSES

- Business-related costs are typically indirect, financial or bottom line costs and **are not** reimbursable through FEMA Public Assistance (PA):

- Cancelled services
 - Loss of income/revenue
 - Emergency financial assistance
 - Managing liquidity issues
 - Debt servicing
 - Business Interruption Costs
- The CARES Act includes funding for HHS, SBA, HUD, DOA and other agencies that may be utilized to pay for business related costs.
 - Eligibility questions regarding Business-related and Operating Costs frequently come from fee-based public entities. As a rule of thumb, indirect, financial, or “bottom line” costs of doing business are not eligible, including loss of income, revenue, and fees.
 - Increased operating costs are also ineligible; however, there are limited exceptions for Applicants incurring additional costs related to operating a facility as a result of the incident because of an increase in demand for the services the facilities provide. It is critical to understand the program policies in this case and how to document the specific conditions present to maximize cost reimbursement.



INSIDE INSIGHT

While increased operating costs are generally not eligible, it is always a good idea to document business related losses anyway because FEMA assistance is net of insurance, and you may be able to use ineligible costs to reduce FEMA deductions.

2. TEMPORARY FACILITIES & OPERATING COSTS

- To be eligible for reimbursement, costs incurred must “fit” under the concept of Emergency Protective Measures for FEMA assistance, as outlined above. That means services directly related to, not just because of, the emergency.
- Facilities should always be appropriate for their intended use.
- Private/Non-Profits providing support to your city can be eligible for FEMA reimbursements if their additional costs are: specifically related to the emergency, for a defined and limited period of time, and tracked and carefully documented.

- Increased costs of operating a facility or providing a service are generally not eligible, even when directly related to the incident. However, short-term increased costs that are directly related to accomplishing specific emergency health and safety tasks as part of emergency protective measures may be eligible if:
 - The services are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property;
 - The costs are for a limited period based on the exigency of the circumstances;
 - You track and document the additional costs.
- Costs must be directly tied to the performance of eligible work, documented, and reasonable in nature and amount.
- Services provided in administrative and support facilities essential to the provision of the essential community service are also eligible for relocation.
- Note that FEMA does not require you (the municipality) to obtain and maintain insurance for temporary facilities.



INSIDE INSIGHT

Even though facilities are for “temporary use” they should still be built or renovated to code and can be transitioned into normal operating use after the immediate response.

3. STAFF TIME & ADMINISTRATIVE COSTS

- Overtime associated with responding to the emergency is eligible, but straight time is not.
- Pre-positioned (stand-by) resources can be eligible if directly related to the emergency and services in support. These resources can be reimbursed even if they are not ultimately used, providing it was necessary and prudent to pre-position given information available at the time.

- Providing emergency protective measures conducted on private property is limited and must show: immediate threat is widespread, legal authority to do the work, right of entry/indemnification agreements.
- Emergency administrative work is eligible and you can be reimbursed for contract support performing eligible work.
- FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on your pre-disaster written labor policy. All costs must be reasonable and equitable for the type of work being performed.
- You may need to temporarily replace an employee who is responding to the incident.



INSIDE INSIGHT

Special rules apply to backfill employees and staff working outside of their pre-event role or responsibility. Consider consulting with a FEMA expert if you intend to seek reimbursement for these costs.

Overtime costs for the backfill employee are eligible even if the backfill employee is not performing eligible work as long as the employee that he/she is replacing is performing eligible Emergency Work.

- Straight-time of a permanent employee funded from an external source (such as a grant from a Federal agency or statutorily dedicated funds) is eligible if the employee is reassigned to perform eligible Emergency Work that the external source does not fund. FEMA would confirm that no duplication of funding exists prior to approval.

4. PURCHASING CONSUMABLE ITEMS & SUPPLIES

- Supplies and commodities directly related to the emergency and services necessary are eligible for reimbursement.
- Restocking supplies and commodities can also be eligible.
- The cost of supplies, including materials, is eligible if:
 - Purchased and justifiably needed to effectively respond to and/or recover from the incident; or
 - Taken from your stock and used for the incident.



INSIDE INSIGHT

It's okay to overestimate based on your real-time knowledge. However, the purchasing should be informed and reasonable.

5. PERSONAL PROTECTIVE EQUIPMENT (PPE), NEW EQUIPMENT & RELATED SERVICES

- Purchases of new equipment and related services may be eligible for reimbursement, to the extent they are directly related to the emergency.
- Items like PPE for workers providing essential services, equipment used directly in the performance of medical care, emergency transportation, are all eligible.
- The purchase of new computers or other equipment to support COVID-19 response functions, will require an additional level of justification. For these items, it will be important to demonstrate the justification for purchase vs temporary use.
- If items are purchased but not utilized or utilized minimally, FEMA may require substantiating evidence of their need.
- Equipment is different from consumable items and supplies, often costs significantly more, and therefore different rules apply.

- You need to carefully identify equipment's use and relationship with incident-specific needs. Equipment necessary to support administrative, non-emergency functions are ineligible.
- Often, equipment is consumed or exhausted by its use during response and recovery, but can still be used after an incident, raising the issue of salvage and residual value. For example, even after completing required actions, a lightly-used piece of equipment may be subject to salvage or residual value, i.e. FEMA will want to take back some of the costs incurred. Knowledgeable personnel/support should be able to document arguments to minimize this claw-back.

6. COORDINATION, COMMUNICATION, INFORMATION SHARING & EMERGENCY OPERATION CENTER COSTS

- Emergency Operation Center (EOC) related costs are eligible for reimbursement. This includes staff augmentation and capacity building/support for EOC and first line response, which is typically an eligible expense.⁶
- Typically resources and support to EOC have been carefully planned and implemented. However, COVID-19 will require extended EOC activations that will stress those resources, Mutual Aid support, and contracts.
- COVID-19 warnings, guidance, and information sharing are also eligible, including raising awareness of new services available and related communications. This includes the staff time, materials, reasonable contract costs, delivery, etc.
- Some tele-working solutions to ensure continuous critical services for health and safety may also be eligible.

⁶ FEMA will reimburse staff/labor cost for operations of an EOC limited to overtime for budgeted staff and costs for meals during shifts. If you bring on contractors and/or temporary staff in the performance of eligible work, then these costs can be also be considered for both straight time and overtime.

7. EMERGENCY & PUBLIC TRANSPORTATION COSTS

- Transporting and pre-positioning resources is eligible for reimbursement. This can include emergency-related transportation of supplies, staff, and community members. Contract services may be eligible, but you need to document the circumstances, appropriateness, and applicability. Transport associated with evacuation and sheltering (even if performed by another entity) may also be eligible.
- Enhanced deep cleaning of emergency and public vehicles to prevent community transmission should also be considered. While buses, trains etc. need to be cleaned and sanitized, you should also ensure protection of frontline workers (e.g., cleaning patrol cars, fire trucks, government use vehicles, etc).
- There may be funding from DOT that comes into play later, but if there is an urgent threat to life and safety, or measures that need to be taken to mitigate community transmission NOW, act now.



INSIDE INSIGHT

Targeted temporary transportation services could be considered eligible if they meet a critical life safety purpose.

8. SOCIAL DISTANCING & QUARANTINE ENFORCEMENT MEASURES

- Costs associated with quarantine, such as cleaning and disinfecting facilities and equipment, may be eligible. Additional services and associated costs may be incurred due to Shelter-in-Place orders by federal, state, and local officials, e.g. state Public Health officers. This could include items such as dealing with pets and service animals.

- Other miscellaneous supplies and services needed for a specific disaster response effort have to be carefully documented and linked to emergency protective measures to eliminate or lessen immediate threats to lives, public health, or safety. For example, costs associated with implementing social distancing under a shelter-in-place order may also be eligible. These might include rental or purchase of equipment to continue essential services, altering a temporary facility to enforce special separation between working stations, or public outreach and messaging costs necessary to inform the public that services will be temporarily provided at a new location. These costs must be reasonable in nature and amount.



INSIDE INSIGHT

Extraordinary times call for creative solutions; FEMA may cover the cost of using hotels, dorms, Airbnbs, etc. for self-isolation and quarantine to mitigate community transmission.

Key elements you need to know about FEMA funding

Local cost-sharing requirements

- At this time, FEMA PA for Category B- Emergency Protective Measures is provided at a 75% federal share. This means that State and local municipal governments are responsible for the remaining 25% of each Project approved for assistance. However, experience has shown that FEMA may choose to waive or reduce this local cost share requirement at a later date. In the interim, States can request a waiver of this requirement, under 44 CFR 206.47 (d).
- Specifically, emergency work under Section 403 and Section 407 of the Stafford Act may be subject to one hundred percent (100%) Federal funding, for a limited time period in the initial days of the decelerated event irrespective of the per capita impact. This waiver must be requested by your State. You should work with your State to understand if they intend to assume a portion of this cost share requirement and/or are requesting a waiver.

- There are measures that can be taken to offset the local cost share by documenting donated materials, supplies or volunteer hours. FEMA allows for this offset provided that the following conditions are met:
 - The donated resource is from a third party (a private entity or individual that is not a paid employee of the Applicant or Federal, State, Territorial, or Tribal government);
 - You use the resource in the performance of eligible Emergency Work; and
 - You track the resources and work performed, including description, specific locations, and hours.

Critical issues to consider

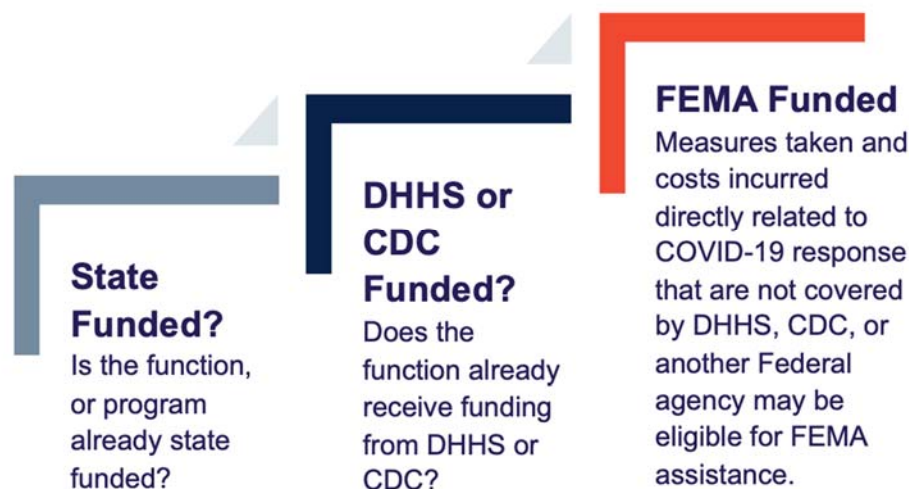
In addition to the need for proactive and robust documentation and monitoring, as discussed in the next section for this Guide, there are a number of particular high-risk areas that may jeopardize reimbursement:

- Challenges with cash flow and covering significant expenses as existing budgets are stretched by emergency responses.
- Lack of experience with new FEMA Policies, Procedures, Guidance, and Systems.
- Need to creatively interpret FEMA Regulations (not specifically designed for a pandemic).
- Not having agreements in place with external parties such as private non-profits (PNPs), private companies, and external service providers.
- Risk of taking Emergency Protective Measures that are not “typical” for the FEMA PA Program.
- Overwhelmed Federal and State staff means you are unlikely to receive timely advice, guidance, or “pre-approvals” that cities may be inclined to pursue.⁷

⁷ This is where the expertise of professionals with background in this field would be valuable.

Multiple federal funding streams

- Ultimately, there are multiple funding streams that can be used to reimburse items related to COVID-19 response.
- As you work through the administrative component of seeking reimbursement, apply this simple test when determining which funding source you should pursue:



- If there is a pressing measure that is directly related to protecting life and safety of residents, do not wait for FEMA approval to enact it. Take the measure and funding can be sorted out later, especially with FEMA funds.
- **FEMA will not give pre-approval on whether items will be reimbursable prior to them being incurred.**

Consultants and contractors are a FEMA-eligible expense

Consultants to support the FEMA (and other Federal programs) reimbursement process can be helpful to accelerate reimbursement processes and ensure appropriate rules and regulations are followed. These costs can be covered by FEMA.

Costs associated with the following activities are eligible for reimbursement if they are related to only one project and meet the above requirements (this list is not all-inclusive):

- a. Developing a PW
- b. Reviewing the PW
- c. Travel Expenses
- d. Collecting, copying, filing, or submitting documents to support the claim

Congressional appropriations to support response to COVID-19

While we have placed a focus in this Guide on FEMA assistance, there are other federal funding streams available, a number of which are discussed below:⁸

Coronavirus Preparedness and Response Supplemental Appropriations Act (COVID I)

- **Public Health Funding for Prevention, Preparedness and Response**

\$2.2 billion to the Centers for Disease Control and Prevention to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus. This includes \$950 million, of which \$475 million must be allocated within 30 days, to conduct public health activities, such as:

- Surveillance for coronavirus;
- Laboratory testing to detect positive cases;
- Contact tracing to identify additional positive cases;
- Infection control at the local level to prevent additional cases;
- Migration in areas with person-to-person transmission to prevent additional cases; and other public health preparedness and response activities.

- **HHS Public Health and Social Services Emergency Fund**

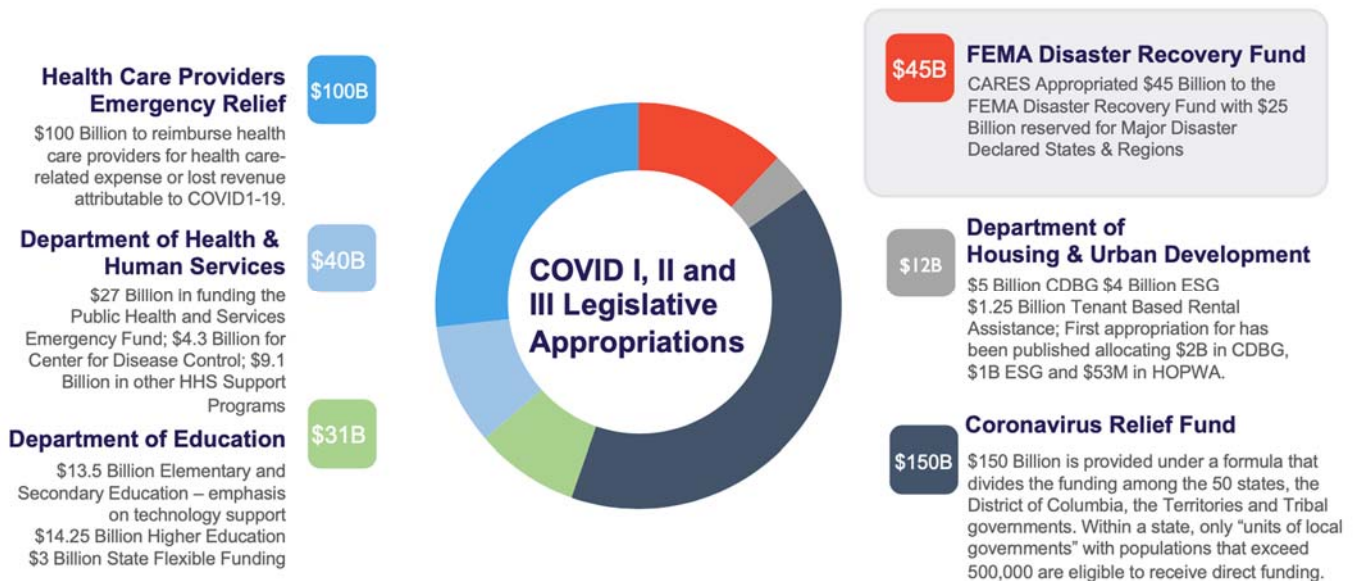
More than \$3 billion for the Department of Health and Human Services' (HHS) Public Health and Social Services Emergency Fund. In addition, the bill includes funding for

⁸ Be aware that continuous updates and new initiatives from a variety of Federal agencies may become available.

grants for the construction, alteration, or renovation of non-federally owned facilities to improve preparedness and response capability at state and local levels.

- **Public Health and Social Services Emergency Fund**

- \$1 billion to pay the claims of providers for reimbursement for health services consisting of SARS-CoV-2 or COVID-19 related items and services or visits for uninsured individuals.



Coronavirus Aid, Relief, and Economic Security Act (COVID III)

Congress passed its 3rd response package to the COVID-19 pandemic, with more than \$2 trillion in funding. All told, Congress has authorized three legislative packages to support responses to COVID-19.

The US Conference of Mayors has established a [CARES Act Resource Center](#) which provides a summary of the key program funding relevant to cities. The information is updated online as the various agencies announce grant solicitations and new or amended regulations. Several of the programs with the largest amounts of funding available are briefly outlined below with

information available as of April 9, 2020. But please regularly consult the USCM [CARES Act Resource Center](#).

- **CDBG:** \$5 billion to address COVID-19 (services for senior citizens, the homeless, and public health services). Of this, \$2 billion will be distributed using the normal formula (70 percent to entitlement cities and counties, and 30 percent to the states). \$1 billion will go to the states based on a formula developed by HUD for COVID-19; the states will allocate the funds to entitlement and non-entitlement communities. And \$2 billion will go to the states and localities based on a formula to be developed by HUD in 30 days.
- **Homelessness Assistance Grants:** \$4 billion to state and local governments to address coronavirus among the homeless population. Additional waiver authority is provided to more effectively target the assistance to contain the spread of coronavirus among the homeless.
- **FEMA Disaster Relief Funding:** \$45 billion in total, with \$25 billion of this to go to areas with major disaster declarations (currently all states and territories with the exception of Wyoming and American Samoa have requested a major disaster declaration and nearly all of them have received one) and \$15 billion for all purposes allowed under the Stafford Act.
- **CDC:** \$4.3 billion for the Center for Disease Control and Prevention (CDC), of which \$1.5 billion will be designated to CDC's State and Local Preparedness Grants for state and local preparedness and response activities. Additionally, funds provided under this account can be used for grants for the rent, lease, purchase, acquisition, construction, alteration, or renovation of non-federally owned facilities to improve preparedness and response capability at the State and local level.

- **Department of Homeland Security Disaster Relief Fund**
 - \$45 billion to provide for the immediate needs of state, local, tribal, and territorial governments to protect citizens and help them recovery from the overwhelming effects of COVID-19. Reimbursable activities may include medical response, personal protective equipment, National Guard deployment, coordination of logistics, safety measures, and community services nationwide.

- **Small Business Administration Programs**
 - **Paycheck Protection Programs:** Under the program, small businesses, other business concerns, nonprofits and veterans organizations that generally have fewer than 500 employees; self-employed; sole proprietors; independent contractors; and businesses in the accommodation and food services sector with fewer than 500 employees per location are eligible for forgivable small business loans to cover payroll; health care costs; mortgage interest payments, rent and utility payments; and interest on pre-existing debt obligations.
 - **Business Loan Program Account:** Allows SBA to forgive up to 6 months of existing SBA loan payments.
 - **EIDL and EBL Programs**
 - *Economic Injury Disaster Loan Program:* The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to \$2 million.
 - *Express Bridge Loans:* Express Bridge Loan Pilot Program allows small businesses who currently have a business relationship with an SBA Express Lender to access up to \$25,000 with less paperwork.

The federal government mandates that federal agencies must meet the basic needs of people, including and especially at a time of declared disaster. The federal programs that support people during the period of disaster are outlined in Appendix A, and the local government must work with the county and state to trigger those benefits for residents.

The legislation also has a number of important health care provisions that may be relevant for you if your city operates a hospital or health system. This includes an emergency fund for hospitals and health systems, a Medicaid Disproportionate Share Hospital (DSH) cut delay, temporary elimination of the Medicare sequester, and a Medicare diagnosis-related group (DRG) add-on payment together are estimated to make available \$117 billion in new funding for urban and rural hospitals and health systems.

- **Public Health and Social Services Emergency Fund:** The legislation would make available \$100 billion to reimburse eligible health care providers for healthcare-related expenses or lost revenues not otherwise reimbursed that are directly attributable to COVID-19. Eligible providers are defined as public entities, Medicare- or Medicaid-enrolled suppliers and providers, and other for-profit and non-profit entities as specified by the Health and Human Services (HHS) Secretary. Funding would be on a rolling basis through “the most efficient payment systems practicable to provide emergency payment.”

Section 2

COVID-19 Disaster Relief Fund Oversight – Framework and Checklist for Proactive Monitoring

Rose Gill, Principal, Bloomberg Associates

Jane Bartman, Manager, Bloomberg Associates

Amy Kurland, Manager, Bloomberg Associates

In Partnership With:

DeLuca Advisory

Guidehouse

Kobre & Kim

Best Practices Checklist

Months from now, you will be called upon to account for the aid you are receiving. In addition, as part of the reimbursement requests that you will be making, you must reverse engineer now what you will need to have in the future. That will enable your city to make the strongest showing for accurate and real time fiscal record keeping. Some cities know from past experience that federal funding is denied or “clawed back” under circumstances where the required record-keeping and rules were not known and/or followed in real time. Below are some steps municipalities can implement regarding receipt, disbursement, monitoring and reporting of funds received as part of these relief packages:

Assemble your team

Each Mayor should designate and empower a senior member of staff, with a small multi-disciplinary group as support, to serve as the citywide team that will be the central gatekeeper on all information pertaining to COVID-19 operations, and guide on the overall direction of the city’s efforts. The team’s responsibilities should include gathering information about all sources and amounts of aid, grants, and loans the city has received; and all applications pending, approved and denied in whole, or in part. The team will also maintain real time central tracking on the disbursement of all funds through city channels and agencies. All department heads engaged in response efforts should report to the team on a regularized basis, (e.g., daily at first, perhaps less as the situation changes), with their respective data and key updates. Those updates will feed the team’s central tracking system that will maintain the holistic picture citywide, with which the Mayor, City Manager and Council can be updated daily ideally, and It can serve as an accurate source of information for communications to the public. In their standing reports to the team, all departments should include their respective Key Performance Indicators (KPIs), for instance, the number/rate of COVID overtime hours, equipment and supplies utilized, etc. Therefore, the KPIs are centrally kept for operational reasons and to facilitate later reimbursement requests made to the federal government.

In choosing who should be part of the team, the lead could be a chief of staff or senior operations or emergency management official. For other members of the multidisciplinary team, the city could draw upon relevant agency stakeholders including, a senior designee from among OMB, Finance, Emergency Management, Health, Procurement, Administrative Services, Law, Intergovernmental, Human Resources; individuals from your agencies with construction, accounting, IT and grant-management skills and experience. This is your bench with the relevant credentials and experience to help handle the critical tasks at hand, while managing the aid received.

Having a team at the top of this kind of daily information-gathering will facilitate the task of maintaining good fiscal control over the various federal funding streams the city receives.

Procurement issues

Ensure all decisions to spend money follow a well-thought-out and transparent process.

- Try to use an open and competitive procurement process where practical, although procurement rules may be eased in emergency circumstances. Your team should know the regulations specific to your sole source and emergency contract rules. The decisions to spend money must still be documented consistently, as an established policy and practice, as this likely will be audited by the federal government at a later date. Jurisdictions have been negatively impacted in past situations when they could not produce support for important work they did.

Understand mandatory federal legal contract provisions

- There are mandatory federal legal contract provisions that should be reviewed and likely must be included in your RFPs and contracts if you are using federal relief money. For example, according to the Davis-Bacon Act, contractors must pay appropriate wages as set forth in the Act. (For a list of additional mandatory federal

RFP and contract provisions, see Appendix B.) Many of those provisions are likely already part of your city’s standard contract terms.

- FEMA allows reimbursement pursuant to several contract types that your city already utilizes and is familiar with, e.g., fixed price, cost reimbursement, and time and materials.

Include contract provisions that safeguard the city’s fiduciary responsibilities for the lifecycle of the procurement

- Make sure all contracts have a “right to audit and inspect” and a “must cooperate with the city” clause in the event the city has a question or wishes to see any record. (See Appendix C, Paragraph 4.)
- Additionally, be wary of “low ball” proposals or vendors that then require significant change orders that can drive up costs. In fact, be mindful that all of the contract and pricing controls discussed in this Guide should be included, perhaps all the more, in connection with change orders. Past experience demands that. Change orders could be requested in service or construction contracts, for example, in cities that are building space for hospital/medical facilities.

Know the emergency declaration period in which you are operating

- Remain particularly cognizant that each federal funding agency and source will have unique eligibility, monitoring, compliance and reporting procedures.



INSIDE INSIGHT

Time and materials contracts are reimbursable only if all the following apply:

- a. No other contract was suitable.
- b. The contract has a ceiling price that the contractor exceeds at its own risk.
- c. A high degree of oversight that assures effective methods and cost controls throughout the contract.

- FEMA will identify the emergency declaration period during which cities are permitted to use sole source and other emergent procurement vehicles, but procurements before or after that time frame may not be reimbursable. (Source: *FEMA Factsheet January 28, 2019, Procurement Conducted Under Exigent or Emergency Circumstances.*)



INSIDE INSIGHT

Cities have experienced disallowances. *Know the reimbursable emergency declaration period.*

Cities have permissibly done sole source procurements within the time frame of the emergency declaration period but continued to use the same contract for purchases that fell outside the reimbursement period. Cities have been denied reimbursement when a contract that began within the emergency declaration period continued thereafter.

Implement procurement controls

- Where possible, **use existing contracts or known vendors:**
 - Use existing city or available state contracts to draw down on, as they already include established vendors; or try to use known vendors; or try to use approved vendor or supplier lists that have already been vetted.
- Effective procurement controls should include a **due diligence** process for suppliers, vendors and contractors:
 - Consult existing debarment and vendor performance reviews.
 - Require vendors and contractors to vet their own suppliers and subcontractors and document their vetting process, as well as provide this documentation if requested.
 - Develop a protocol concerning conflicts of interest to ensure that officials with decision-making power over procurements do not have business or other personal interests that will impact selection. (See Code of Conduct template in **Appendix D.**)

- Keep in mind, it may be possible to remediate a vendor with a derogatory issue by having the vendor remove an employee from your city's contract work, or by correcting a practice.
- Create a platform for cities to share due diligence information about vendors. For example, if a vendor is deemed non-compliant in one city, the platform would alert other cities about such substantiated findings. This would help other cities to be informed about the vendor's conduct, or alert other cities to the potential need for additional due diligence and compliance checks in connection with the vendor.

Key integrity controls

Conduct an assessment of the existing financial controls that you already have in place for managing your own budgets because they are your first line of defense as you move forward managing the funds you receive under the various assistance program(s). To the extent that your review determines that your controls may not be sufficient and require enhancements, there are ways to do that.

Don't be daunted: you all run budgets of varying sizes with your own team of professionals, most of you already receive funding from the state and federal government for a variety of non-disaster related programs for which you have processes in place, you receive tax revenue - so you have the framework to do this well.



INSIDE INSIGHT

Ineligible Costs – Procurement

FEMA denied reimbursement under circumstances where federal procurement standards were not followed in awarding 12 contracts totaling \$23.9 million. Specifically, for 11 contracts totaling \$23.3 million, the city did not take the required affirmative steps to ensure the use of disadvantaged firms when possible.

As a result, DHS's Office of the Inspector General (OIG) recommended claw-back of 100% of the \$23.9 million.

Perform due diligence on all vendors, suppliers and contractors receiving funding

- In emergency vetting situations, at a minimum, a basic level of due diligence must be done, and a more extensive evaluation should be conducted as soon as possible, even if this means completing post-award. Retain the contractual authority to terminate an award if post-award due diligence reveals unacceptable risk factors.

Additional Documentation Safeguards

- If you are providing equipment or services to others outside of your jurisdiction, i.e., loaning staff or equipment, you should memorialize that in some form of a mutual aid agreement.
- The more you document up front, the less likely FEMA will be to question your costs.
- All of this documentation may also become valuable again, if there is litigation in the future with vendors, which can and does happen.

Train city personnel and vendors about conduct and expectations

- Develop a Code of Conduct that applies to vendors and the city employees with whom they interact. (See Code of Conduct template in **Appendix D**).
- Require contractors, vendors, and suppliers to review and acknowledge the Code of Conduct.
- Utilize written Certifications, which set forth standard business ethics guidelines that are signed by all vendors. For instance, certifications typically state that the vendor has not engaged in kickbacks, payments to officials, price gouging, etc. FEMA favors these certifications because they clarify the city's position and enhance its written integrity record; and inform vendors, some of whom may not be used to public

contracts, of the rules of engagement. Certifications were deployed during the World Trade Center reconstruction. (See Certification template in **Appendix C**).

- Require vendors to have available for inspection their own written control procedures, including documentation of personnel hours, invoicing, billing, and inventory controls. (See audit and inspect provision in **Appendix C**).
- Develop a protocol concerning conflicts of interest to ensure that officials with decision-making power do not have business or other personal interests that will impact their decision-making. (See conflict of interest provision in **Appendix D**).
- Design inventory and security safeguards to protect against the theft of supplies from critical agencies such as hospitals and medical centers.

*Many contractors and firms providing goods and services related to COVID-19 have never operated in an environment where the funding was from federal program money and reimbursements. **They undoubtedly want to follow the rules, provide a high level of service, and in return, be paid on time.** To assist them and to address issues that are readily resolvable, the city should make sure that each contractor has a city point of contact, e.g., a project or agency manager, to reach out to ask questions about, e.g., items pertaining to submission of payments.*

Create internal audit program; conduct audits in real time

All the guidance set forth in this Guide can be distilled as follows: cities should have a robust internal audit/monitoring process that is documented for future review, to ensure that funds are being used for their proper purposes.

- Incorporate spot audits of supporting documentation in real time and conduct comprehensive reviews of all invoices and other requests or payment.
- Disallow any overbillings or out-of-contract discrepancies. Retain documentation of that process. This will demonstrate to federal authorities that you took proactive steps to protect against misspending.⁹
- Upon any finding of repeated misconduct (e.g., overbillings or substandard deliveries) by a vendor, remove them from your approved list.¹⁰
- Train city employees and contractors on the importance and requirements of document retention for future audits.



INSIDE INSIGHT

Ineligible Costs – Abuse of Federal Funds

A FEMA Public Assistance subrecipient alleged that it spent \$13.2 million of the \$17.6 million received for disaster expenses. However, the subrecipient disregarded federal grant requirements, and the grantee did not adequately monitor the subrecipient's grant activities.

As a result, DHS OIG recommended recovery of 100% of the total \$32.4 million originally awarded.

⁹ In addition to internal audits, the government agencies providing the funding will typically conduct their own periodic audits to ensure that funds are being used for their intended purposes. Some cities retain independent professionals, i.e., monitors or auditors, to help implement these fiduciary controls, and down the road help prepare submissions for and participate in the reviews with FEMA and other federal agencies. This may serve to provide both the city and the federal funding agencies with a degree of assurance that the municipality properly used the funds. As previously mentioned, the fees for such financial experts who provide that support are typically reimbursable by FEMA or by the agencies under which the disaster funds have been provided.

¹⁰ Refer any instances of serious theft or fraud to relevant law enforcement agencies (i.e., U.S. Attorney's Offices, federal law enforcement agencies, and Inspectors General), and collaborate on any necessary investigation or enforcement action against identified wrongdoers. Where an instance of fraud, waste, or abuse has been detected, disseminate remedial action steps to prevent recurrence.

- Memorialize all meetings with the state and FEMA; do memos to file, in order to outline your reasoning and support your record for FEMA.
- Rather than viewing good record keeping as an extra burden, the value of it, beyond FEMA support, is that it will also facilitate paying your vendors promptly. Keep in mind, your vendors may experience challenges with cash flow as they cover rapid and significant expenses.

Appropriate segregation of duties

- Implement a well-defined structure to segregate duties between the staff, e.g., making requests vs. approving requests for such things as materials, supplies and services; conducting cost comparison analysis vs. setting rates; technical review vs. price review for procurements. Create an organizational chart or graphic that informs staff about their respective roles in this segregation of duties. Segregating duties can help protect against theft, insider dealing, conflicts of interest and price inflation.



INSIDE INSIGHT

Ineligible Costs – Improper Controls

DHS OIG recommended suspension of \$29.9 million of grant reimbursements based on the fact that the city had inadequate controls regarding segregation of duties, that otherwise would have been eligible under the FEMA Hazard Mitigation Grant Program.

Inventory, Pricing, Billing and Timekeeping Controls

Relief programs represent a target-rich environment for fraud, waste and abuse. **You can mitigate this risk** by requiring vendors to have an appropriate review and approval process prior to submitting invoices to the city or other requests for funding. The city

should obtain that process in writing from each vendor, and keep for FEMA supporting documentation.

Develop controls pertaining to prices, costs and related spending associated with the COVID-19 program

Conduct market price comparisons and review product ratings to ensure good quality and that prices of supplies to be purchased are not either inflated due to increased demand or short supply; or too low where the quality may be sub-standard. Additionally, check to see if there is a range in pricing due to regional variables based on local supply and demand issues.

- Ensure that the process for agreeing on prices in a contract are documented and transparent and have multiple levels of supervisory sign-off.
- Implement SOPs for quality assurance and quantity inspections. Verify whether shipments of equipment delivered were as specified in the contract or purchase order. This can detect faulty or non-conforming items (e.g., non-functioning ventilator), and confirm whether the number of items billed were actually received.
- Make sure your team is tracking inventory and expenditures to ensure that resources, materials, and funding flow to where they are supposed to go and are most needed.
- Reduce vulnerability to theft by instituting protocols such as locking supply areas, bar-coding valuable equipment, recording and maintaining serial numbers, requiring



INSIDE INSIGHT

Not Just Controls for Controls' Sake

In a past natural disaster recovery, while moving rapidly, a city assigned unqualified individuals to approve invoices. This caused overpayment problems for that city. Monitors identified the issue and the city took corrective action.

supervisory approval/signatures for distribution, and using video cameras where necessary.

- Assign a specific emergency audit code (e.g., CV19) that documents for FEMA how you delineated and tracked all costs related to COVID-19 for which reimbursement will be sought, including capital expenses, equipment & supplies, contract services, and overtime.
- Ensure clear documented delineation between regular day-to-day expenses and COVID-19-related expenditures (for timekeeping and other-than-timekeeping; PS and OTPS).

Develop controls to protect against labor and timekeeping overbilling

Administer accurate timekeeping to maximize reimbursement

Labor hours billed by vendors/contractors and time billed by city departments toward COVID-19 activities are reimbursable. COVID-19 timekeeping, therefore, should be well documented and have a written managerial approval component. This should be periodically audited on a sample basis. The auditing process itself should be documented; past experience demonstrates that FEMA favors seeing that such controls systems were in place.

- The categories of labor and personnel that would be reimbursable include, but are not limited to: medical personnel, hospital personnel and subcontractors, first responders, law enforcement and the many other employees whose work involves COVID-19-related tasks.



- Confirm that overtime, hazard, and other emergency-related pay is being recorded at the appropriate rate and approval, and is legitimately related to COVID-19.¹¹
- Make sure there are clear policies that relate to telework, to the extent that you include it in your reimbursement requests.
- Some critical service providers and salaried employees may not use conventional timesheets. Using the COVID-19 specific accounting code recommended above will be essential for capturing all such labor costs that are eligible.
- Confirm that there are no overpayments concerning employee union benefits and related payments.¹²
- Monitor for stolen city supplies on the black market by doing online site checks.
- Encourage anonymous reporting and provide adequate protections against retaliation.

Develop record-keeping controls and SOPs for billing, for the municipality as well as for vendors, suppliers and non-profits that receive federal funds from the city

- To the fullest extent possible, cities and vendors should be required to maintain hard copy and electronic supporting documentation (e.g., purchase orders, shipping/receiving documentation, receipts, invoices), for all expenses pertaining to COVID-19, including, but not limited to, claims for losses, labor/timekeeping, materials and equipment purchased, allocations, etc.

¹¹ Ensure individuals do not try to “capitalize” on overtime granted for COVID-19 relief. From past experience this has jeopardized aspects of a city’s reimbursement request.

¹² Typically such costs have not been eligible. This could change, however. We will learn more about if/how the CARES Act is going to address this unprecedented situation.

- Maintain records of funding received and expenditures made, organized by funding source and time of request/receipt.
- FEMA has a sample FEMA Document Retention Checklist that cities and vendors can use as a guide. (see **Appendix E.**)
- You should track items taken from stock with inventory withdrawal and usage records. FEMA provides Public Assistance funding for these items based on invoices, if available. If invoices are not available for items used from stock, FEMA provides PA funding based on the Applicant’s established method of pricing inventory.
- The city could create written inter-agency agreements that assign departmental accountability for the way federal relief money is spent and records kept by downstream recipients. This was done in Puerto Rico where funds were distributed to various local entities (e.g., health systems and hospitals, utilities, and police and fire departments), so that all recipients had their own individual level of accountability. Those agreements have to be implemented, not just on paper.

City distribution of federal funds to non-profits and other beneficiaries engaged in COVID-19 support

Various cities may be serving as a pass-through of federal funds to non-profits, CBOs, hospitals, researchers, grant recipients. If so, there are several controls to be mindful of:

- Confirm eligibility under applicable funding guidelines; perform due diligence, ensure funds are utilized within scope for eligible goods and services; and protect against duplication of benefits.



INSIDE INSIGHT

Ineligible Costs – Inadequate Documentation

A DHS OIG audit found insufficient documentation to support grant expenditures, and recommended a return of \$246k. *E.g.*, payments were made without invoices obtained (or retained).

COVID-19 construction-related work

- In some places, cities are being called upon to retrofit government and privately held facilities, to create spillover space and temporary medical centers for critically ill patients with the virus. The rapid nature of this retrofitting, construction, (and eventually deconstruction) of these facilities will be funded by a combination of federal funds or by state and local entities that are reimbursed by federal funding agencies.
- Construction fraud risks, especially in time and materials contracts (which are more open-ended than lump sum contracts), can be minimized, *but only if* closely monitored and managed up front with, *e.g.*, daily field inspections that check work and progress, daily planning meetings with the contractors, and billing reviews. Various professional monitor firms are well equipped to assist cities with construction monitoring.

Additional safeguards

Guard against cyber schemes

- Review and/or update IT and cybersecurity controls in light of increased risks connected to COVID-19. Assess vulnerabilities such as phishing scams, ransom attacks or hacking. Caution your employees and vendors about risks of scams, which may, *e.g.*, solicit contributions to “COVID-19 charities,” invite the user to open or click on emails or links purporting to be legitimate communications about COVID-19, etc.

Solicit assistance from the public

- Establish communication channels, public service announcements, and social media campaigns as a means to encourage two-way communication with the public and combat fraud, (*i.e.*, “See Something, Say Something” campaigns).
- Set up a COVID-19-related whistleblower hotline to report fraud, waste and abuse. Ensure a mechanism is in place to document and review those complaints that pertain to the COVID-19 program.

While we do not elaborate herein, we assume that cities are developing written safety protocols to ensure the personal safety of city and vendor employees.

Conclusion

The first thing that cities must do is identify all available sources of federal funding. How to navigate the complexities of what is available, the application process, eligibility criteria, we hope has been made more clear with the user-friendly roadmap provided in Section 1. The Guide also directs you to websites and links for relevant applications and instruction. It charts the process from application to distribution of funds. We will continue to harness new information about funding as it is made available, and provide you with updates. Please be aware that federal rules and guidance are being updated in real time as federal agencies, state and local governments, and medical experts learn how to best respond to and manage the pandemic.

Cities serve an important function as fiduciaries for federal relief/stimulus funds. The public expects cities to manage those funds effectively and stretch the federal dollars allotted to their city to the maximum, and the media/public is staying closely informed. Stories of fraud or waste would quickly erode public confidence and compromise a city's efforts, including for federal reimbursement. The lessons drawn from past disaster recoveries contained in this Guide are instructive for what we face today – including the clean-up at Ground Zero after the 9/11 attacks, and the aftermath of Hurricanes Sandy, Irma and Maria, to name a few – which will be further discussed by our subject matter experts. Past experience demonstrates that a well-designed integrity monitoring plan can prevent negative consequences, and create an environment that can help successfully guide a city for the duration of the COVID-19 crisis, while the emergency response operations move forward.

The Checklist of items outlined herein, can help your vendors be paid more quickly, help your city identify overbillings in real time, and help your city be reimbursed expeditiously. The Guide takes you through what you can do during the entire funding lifecycle – from procurement to

tracking to reimbursement – and serves as a template for your city as you develop this critical fiscal oversight component of your city’s response to COVID-19.¹³

Moreover, you and your team of professionals must work purposefully and productively with your respective state’s Governor’s Offices on the crisis response for the good of the public. Cities are on the front line, but states are in the driver’s seat – and they are your collaborator – on many of the emergency response actions underway. States are directly dealing with the federal government, and they are the intermediary on much of the important federal funding and supplies flowing to cities for the crisis.

You will meet the challenges of this crisis, supported by the multi-stream funding coming forth from the federal government, and we hope the tools in this Guide help you manage and safeguard those funds for the betterment of your city.

¹³ This document is subject to updates as new information, programs and regulations become available.

Oversight Checklist

- ✓ Flattened the fraud, waste and theft curve. Estimates are that 10% of the total aid could be lost, instead of going toward things people in your city need.
- ✓ Select and empower a senior multi-disciplinary team to be the central gatekeepers on your city's response; assembling data citywide, holding daily internal briefings.
- ✓ To staff your citywide response team, you can select senior designees including a chief of staff, senior operations or emergency management official; and draw from your agencies, *i.e.*, OMB, Emergency Management, Health, Procurement, Law, Intergovernmental, Administrative Services, Finance, Construction, IT.
- ✓ Know the emergency declaration period, it is the timeframe that frames your eligibility for benefits and reimbursements.

Procurement controls:

- ✓ Use existing vendors and suppliers where possible.
- ✓ Include due diligence even though you are moving swiftly, (e.g., vendor past performance reviews, approved vendor/supplier lists, debarment lists, online searches).
- ✓ Conduct market price comparisons and review product ratings.
- ✓ Know the mandatory federal legal contract provisions required in your COVID-19 response contracts.
- ✓ Include contract provisions and integrity certifications that safeguard the city, that also contain "right to audit" and "right to investigate" clauses. (*See Appendix D.*)
- ✓ Require vendors to vet their subs and suppliers.
- ✓ Address/remediate problems with vendors where feasible, so you can continue to conduct business with as many vendors and suppliers as possible.
- ✓ Create a Code of Conduct for vendors that trains/sets expectations; provide code to subs and suppliers. (*See Appendix D.*)
- ✓ Develop written protocol for vendors, subvendors and suppliers, circumscribing conflicts of interest specifically in connection with COVID-19 purchases and contact activities.
- ✓ Create a data-sharing platform to share due diligence information (positive and derogatory) about vendors, with your sister cities. (*e.g.*, a vendor found non-compliant in one city could inform others.)
- ✓ Include opportunities for MWDBE firms in your procurements.
- ✓ Design inventory controls and safeguards against theft. Count and compare deliveries to purchase orders, lock supply areas, bar-code valuable equipment, record/maintain serial

numbers, require supervisory approval/signatures for distribution, video cameras where necessary.

Internal audit protocols:

- ✓ Do spot audits of supporting documentation of invoices in real time.
 - ✓ Do a comprehensive review of every invoice prior to payment.
 - ✓ Disallow any overbillings or out-of-contract discrepancies.
 - ✓ Memorialize the emergency-related purpose for all expenditures if clarification strengthens the justification.
 - ✓ Train/disseminate to relevant employees and vendors, record-keeping requirements.
 - ✓ Create a COVID-specific audit code (CV19) to delineate reimbursable expenses and COVID-related timekeeping for city employees and vendors.
 - ✓ Memorialize any agreement to loan workforce or equipment to other jurisdictions.
 - ✓ Document the above and all internal audit control protocols themselves.
-
- ✓ Segregate duties. *E.g.*, divide responsibilities among staff that relate to ordering equipment/supplies, paying for supplies.
 - ✓ Use FEMA Document Retention Checklist as a guide. (*Appendix E.*)
 - ✓ Be prepared for spot audits by FEMA.
 - ✓ Keep record of all state and FEMA meetings and instructions. Clarify and confirm details in writing with FEMA if needed.
 - ✓ For COVID-19 retrofitting of space for medical facilities, incorporate monitoring and field audits specific to construction projects.
 - ✓ IT should communicate heightened awareness to vulnerabilities such as phishing scams, fraudulent solicitations purporting to pertain to COVID.
 - ✓ Create a COVID hotline for the public to report fraud, theft or waste.
 - ✓ Create a digital dashboard for daily tracking of equipment, supplies, specialized personnel. (*Template available.*)
 - ✓ Work closely with your state's Governor's Office.

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DELUCA ADVISORY

Joseph DeLuca
Michael Carroll

GUIDEHOUSE

Ellen Zimiles
Jay Perlman
Marc Benson
Daniel Gill
Gaurav Menon
Robert Reid

KOBRE & KIM

Steven Kobre
William McGovern

WITT O'BRIEN'S LLC

Brad Gair
Jonathan Hoyes
Bill Roche
Matthew Erchull

Opendatasoft

Jean-Marc Lazard
Ysée Rogé
Rachel Han
Mayara Soares Faria

Appendices

APPENDIX A

Disaster Benefits – Program Information

Disaster SNAP (Supplemental Nutrition Assistance Program) formerly Food Stamps

- **Administered by the US Department of Agriculture**
- In states of emergency, states may file and obtain permission from the Federal government to marshal the resources of Disaster SNAP.
- Disaster SNAP has a simplified process – a simplified application waiving many of the application requirements, notably documentation of income resources, etc. It also provides for very different uses of the benefit than is allowed under SNAP benefits. These include:
 - Use of benefits to purchase prepared food from retailers (cooked food, pre-packaged salad, sandwiches, etc.)
 - Use of benefits to purchase food from restaurants. In the current context, that would be delivery or take out from restaurants. This must be negotiated with specific restaurants because under normal circumstances, they cannot accept SNAP benefits. This is where local advocacy with the restaurants would have to happen, it also certainly helps them financially as a source of income. ○
 - Replacement of food lost due to exigences of the situation.
 - Historically, states must file a plan to administer a Disaster SNAP program and must identify operational aspects as well as specify who the target populations are and give anticipated usage estimates of numbers, etc.

Disaster Medicaid

- **Administered by the US Department of Health and Human Services**
- Similarly, there is a Federal Disaster Medicaid program which again is a simplified application process for individuals who are uninsured or underinsured and require some form of reimbursable Medicaid service as a result of the disaster.
 - Covered Medicaid benefits include home care, mental health care, substance-abuse treatment, as well as traditional medical services.
- Similarly to SNAP, a plan has to be filed by the State specifying the target populations, anticipated numbers of how many people will use the program, operational details, and other information.

Note: The below federal programs have always been available and still are. They are not disaster-related exclusively.

Federal Emergency Assistance to Families (EAF)

- **Administered by the US Department of Health and Human Services**
- **EAF** is available for families who are in immediate crisis. It is subject to income and eligibility criteria, but it is not just part of a regular TANF monthly welfare grant.
 - There are diverse ways the cash can be authorized for a family, such as back rent payments, emergency housing, emergency needs not met by another program such as car repair, etc.

Emergency Assistance to Adults (EAA)

- **Administered by the US Department of Health and Human Services**
- **EAA** is a similar program to meet the emergency needs of people, who specifically receive the Federal Supplemental Security Income (SSI) grant and those who are single individuals who are disabled or aged and do not qualify for social security disability and/or retirement benefits.

APPENDIX B

REQUIRED CONTRACT PROVISIONS				
	Contract Provision	Criteria	Funding-source	Regulation
1	Remedies	Required when over Simplified Acquisition Threshold	All federal funds	2 C.F.R. Appendix II to Part 200 (A)
2	Termination for Cause or Convenience	Required when over \$10k	All federal funds	2 C.F.R. Appendix II to Part 200 (B)
3	Equal Employment Opportunity ¹	Required for construction work	All federal funds	2 C.F.R. Appendix II to Part 200 (C)
4	Davis-Bacon and Related Acts	Required for construction work in excess of \$2,000	All federal funds <i>except</i> for certain FEMA grants	2 C.F.R. Appendix II to Part 200 (D) (40 U.S.C. 3141-3148 and 29 C.F.R. Part 5)
5	Copeland Anti-Kickback Act	Required for construction work in excess of \$2,000	All federal funds <i>except</i> for certain FEMA grants	2 C.F.R. Appendix II to Part 200 (D) (40 U.S.C. 3145 and 29 C.F.R. Part 3)
6	Contract Work Hours and Safety Standards Act ²	Required when over \$100k + mechanics or laborers	All federal funds	2 C.F.R. Appendix II to Part 200 (E)
7	Rights to Inventions	All	All federal funds	2 C.F.R. Appendix II to Part 200 (F)
8	Clean Air Act and Federal Water Pollution Control Act	Required when over \$150k	All federal funds	2 C.F.R. Appendix II to Part 200 (G)
9	Debarment and Suspension	All	All federal funds	2 C.F.R. Appendix II to Part 200 (H)
10	Byrd Anti-Lobbying Amendment	All (Certification required for over \$100k)	All federal funds	2 C.F.R. Appendix II to Part 200 (I)
11	Procurement of Recovered Materials	Required when applicant is a state or political subdivision of a state + work involves the use of materials.	All federal funds	2 C.F.R. Appendix II to Part 200 (J) and 2 C.F.R. 200.322
12	Access to Records	All	HUD and FEMA	2 C.F.R. 200.336 and DHS Standard Terms and Conditions: Version 8.1 (2018)
13	Participation by Minority and Women-Owned Business Enterprises	All	All federal funds	2 C.F.R. 200.321

APPENDIX C

Contractor Certification with City X excerpts¹⁴

Whereas, **CITY X** is committed to safeguarding all COVID-19 federal assistance, as well as all public and private funding directed to address the crisis, from fraud, waste or misdirection, in all contracts, subcontracts and supply agreements. To that end, **CITY X** will implement proper integrity controls with all vendors, subcontractors and suppliers as deemed necessary by **CITY X**.

Whereas, ABC Company (“ABC” or the “Company”) is a (describe type of company) organized and existing under the laws of the State of _____, having an office and principal place of business at _____; and,

The following representations are hereby made by the undersigned on behalf of ABC:

1. **ABC’s Conduct** - ABC, to the best of its knowledge hereby represents that neither ABC nor any of its key people:¹⁵

a. has ever been a defendant, target, subject of, or otherwise under investigation for, any alleged violation of criminal law; served with a grand jury subpoena, search warrant, or the subject of court ordered electronic surveillance.

b. has ever solicited or received, money, gifts, or anything of value to/from any public employee or official for any unlawful purpose in connection with ABC’s business or operations.

2. **ABC’s Reporting Obligations** – ABC agrees that it shall promptly notify **CITY X** in the event any of ABC’s key people or employees:

- are arrested or charged, or enters into any agreement with the criminal authorities, or are subpoenaed or otherwise contacted by any government agency in connection with any criminal investigation;

a. solicit or receive money, gifts, or anything of value to/from any public employee or official al for any unlawful purpose in connection with ABC’s business or operations, or agree to such conduct; or,

¹⁴ This Certification template contains and truncates several provisions relevant to oversight and strengthening the City’s fiscal controls, including the right to audit, inspect and obligation by the vendor to report problems if they arise. Your legal/contracting departments will be responsible for adding appropriate and additional language to your Certification.

¹⁵ References to “key people” include, principals, directors, officers, managers, and shareholders with certain holdings.

b. is found to have participated in any scheme involving kickbacks, bid-rigging, price gouging, illegal labor practices, or other wrongdoing involving business integrity of ABC, which is detrimental to City X.

3. **Full Force and Effect of This Certification** – ABC acknowledges that this Certification is incorporated into all existing contracts and any future contracts awarded to ABC by **CITY X**. Any false representation or a violation of any of the representations herein may constitute a material breach or default of all ABC contracts and subcontracts with **CITY X**. **CITY X** may terminate and/or rescind its approval of such contracts and subcontracts and ABC may not be permitted to continue as a contractor or subcontractor.

4. **Right of CITY X to Audit or Inspect; Obligation to Cooperate** – ABC hereby grants **CITY X**, including its Integrity Monitor, the right to audit or inspect, as may be reasonable or appropriate, to ensure ABC's compliance with the terms and conditions of this Certification. ABC further agrees that it will cooperate with **CITY X** in connection with any such audits or inspections. This authorization includes records that are electronically stored. ABC shall also use its best efforts to assist **CITY X** in obtaining access to or information from employees of ABC with relevant facts/information.

5. **Term of Certification** – This Certification shall expire three (3) years after the date of its execution or the completion of the Contract and any future **X CITY** contracts and subcontracts awarded to ABC, whichever is sooner.

The following signature shall be deemed to have been provided with full knowledge that the this Certification will become a part of the records of **CITY X**, and will be relied upon for its truth and the accuracy of the representations contained herein, in awarding and approving **CITY X** contracts and subcontracts. Furthermore, knowingly submitting a false statement in connection with any of the foregoing may subject ABC or the undersigned to criminal charges.

For: ABC COMPANY, INC.

Dated: _____

By: _____
(Name, Title of Senior Official)

APPENDIX D

Contractor Code of Conduct Suggested Provisions¹⁶

1. **Anti-collusion**

The Contractor will calculate the price(s) contained in any bid or proposal independently, without collusion, consultation, communication or agreement with any other competing Contractor for the purpose of restricting competition.

2. **Gifts to/from City Employees**

No Contractor may offer or give any gift, directly or indirectly, to a City employee; or to the family member of a City employee, where such gift is made because of the Contractor's relationship with the City employee.

3. **Conflicts of Interest**

All contracts and purchase agreements with the City, must be entered into free of any conflicts of interest. For instance, a conflict of interest may exist where the Contractor, or its director, officer, has a familial relationship with an employee of the City who has control of or decision-making authority over the contract with the City.

¹⁶ This Code of Conduct template contains several truncated provisions that address prevalent ethical risks in contracting. Your legal/contract departments will be responsible for appropriate and additional language for your Contractor Code of Conduct.

APPENDIX E

Category B								
Select "R" if Required				"S" when Submitted				
General								
	R	S		R	S			
Photographs	<input type="checkbox"/>	<input type="checkbox"/>	Demonstrating Threat	Technical Reports	<input type="checkbox"/>	<input type="checkbox"/>	Inspection Reports	
	<input type="checkbox"/>	<input type="checkbox"/>	Site		<input type="checkbox"/>	<input type="checkbox"/>	Structural Assessment	
Facility Records	<input type="checkbox"/>	<input type="checkbox"/>	Site Stability Records		<input type="checkbox"/>	<input type="checkbox"/>	Environmental Assessment	
	<input type="checkbox"/>	<input type="checkbox"/>	Demonstrating Threat		<input type="checkbox"/>	<input type="checkbox"/>	Geotechnical Assessment	
Maps	<input type="checkbox"/>	<input type="checkbox"/>	Site(s) Location Map	Force Account	<input type="checkbox"/>	<input type="checkbox"/>	Pay Policy	
Regulatory Permits and Correspondence	<input type="checkbox"/>	<input type="checkbox"/>	Environmental Permits	Direct Administrative Costs	<input type="checkbox"/>	<input type="checkbox"/>	Specific description of administrative task performed by individual	
	<input type="checkbox"/>	<input type="checkbox"/>	Historic Preservation		<input type="checkbox"/>	<input type="checkbox"/>	Skill level and position description of individual performing task	
	<input type="checkbox"/>	<input type="checkbox"/>	US Corp of Engineers					
	<input type="checkbox"/>	<input type="checkbox"/>	US Fish and Wildlife					
	<input type="checkbox"/>	<input type="checkbox"/>	National Marine Fisheries Ser.					
Work Completed				Work to be Completed				
Force Account or Donated Labor	<input type="checkbox"/>	<input type="checkbox"/>	Work Orders/Activity Logs	Force Account	<input type="checkbox"/>	<input type="checkbox"/>	Applicant-developed scope of work	
	<input type="checkbox"/>	<input type="checkbox"/>	Sample of Timesheets		<input type="checkbox"/>	<input type="checkbox"/>	FA Labor Estimate	
	<input type="checkbox"/>	<input type="checkbox"/>	Fringe Benefit Calculations		<input type="checkbox"/>	<input type="checkbox"/>	FA Equipment Estimate	
	<input type="checkbox"/>	<input type="checkbox"/>	FA Labor Summary		<input type="checkbox"/>	<input type="checkbox"/>	FA Material Estimate	
Force Account or Donated Material	<input type="checkbox"/>	<input type="checkbox"/>	Receipts		<input type="checkbox"/>	<input type="checkbox"/>	Fringe Benefit Calculations	
	<input type="checkbox"/>	<input type="checkbox"/>	Material Usage Summary		<input type="checkbox"/>	<input type="checkbox"/>	Historical Cost Records	
Force Account or Donated Equipment	<input type="checkbox"/>	<input type="checkbox"/>	Equipment List	<input type="checkbox"/>	<input type="checkbox"/>	Unit Cost Estimate (prepared by Applicant or A/E)		
	<input type="checkbox"/>	<input type="checkbox"/>	Usage Records					
	<input type="checkbox"/>	<input type="checkbox"/>	Rental Contract/Receipt					
Contract	<input type="checkbox"/>	<input type="checkbox"/>	Contract	Contract	<input type="checkbox"/>	<input type="checkbox"/>	Contract	
	<input type="checkbox"/>	<input type="checkbox"/>	Bid Documents		<input type="checkbox"/>	<input type="checkbox"/>	Bid Documents	
	<input type="checkbox"/>	<input type="checkbox"/>	Invoice(s)		<input type="checkbox"/>	<input type="checkbox"/>	Procurement Documentation	
	<input type="checkbox"/>	<input type="checkbox"/>	Cost Analysis					
	<input type="checkbox"/>	<input type="checkbox"/>	Procurement Documentation					
Program Eligibility								
R	S		R	S		R	S	
<input type="checkbox"/>	<input type="checkbox"/>	Procurement Policy	<input type="checkbox"/>	<input type="checkbox"/>	Mutual Aid Agreements	<input type="checkbox"/>	<input type="checkbox"/>	Rental/Purchase Cost Comparison
<input type="checkbox"/>	<input type="checkbox"/>	Insurance Policy	<input type="checkbox"/>	<input type="checkbox"/>	Donated Resources	<input type="checkbox"/>	<input type="checkbox"/>	Legal Authority
<input type="checkbox"/>	<input type="checkbox"/>	Lease Agreement	<input type="checkbox"/>	<input type="checkbox"/>	Certification by Federal, State, Tribal, or local government officials that a threat exists			
<input type="checkbox"/>	<input type="checkbox"/>	For Flood Control Works, maintenance agreements with other Federal agencies						

FEMA Categorical Information Checklist