



# Federal Emergency Management Agency

Washington, D.C. 20472

1. **Date Published:** April 22, 2001
2. **Response and Recovery Directorate Policy Number:** 9525.11
3. **Title:** Payment of Contractors for Grant Management Tasks
4. **Purpose:** This policy is to provide guidance on the eligibility of costs when a Grantee or subgrantee employs contractors to manage the Public Assistance (PA) Program in place of Grantee or subgrantee employees.
5. **Scope and Audience:** This policy is applicable to all major disasters and emergencies declared on or after the publication of this policy. This policy is intended for Federal Emergency Management Agency (FEMA) personnel in making eligibility determinations for the PA Program.
6. **Background:**
  - A. Most Grantees and subgrantees have the personnel capacity to respond to a disaster. The personnel are either located within the emergency management office or they are available from other state agencies or local government departments. However, some State, Tribal, and local governments are finding it necessary to outsource work as their resources continue to shrink. Several have indicated an interest in using contracts and similar instruments to secure a workforce to administer or assist with the PA Program.
  - B. This new policy recognizes the trend toward Grantee use of contractors for grant management work and streamlines the payment procedures by defining the contract costs as eligible under "State Management Administrative Costs" *PW* (also known as the Grantee Management Cost Project Worksheet or Management *PW*). Under previous procedures, Grantees have been denied management contractors' expenses for overtime, travel and per diem. In the past, FEMA treated the contractor expenses as though they were Grantee employee expenses and held that all overtime, travel and per diem expenses were covered by the "Statutory Administrative Costs" allowance (also known as the Grantee's Administrative Allowance or sliding scale).

FEMA will no longer treat the contractors as State employees and all eligible contractor costs will be reimbursable through the State Management Administrative Costs. Therefore, all reasonable contractor costs, including overtime, travel and per diem, will be allowed as State Management Administrative Costs. There is no similar provision for subgrantees because all of their grant management and administrative costs are required by statute to be considered under the Statutory Administrative Costs allowance (also known as the subgrantee's Administrative Allowance or sliding scale).

- C. The term "State Management Administrative Costs" is used in 44 CFR 206.228(a)(3). The paragraph permits the payment of some Grantee costs. This includes the payment of some Tribal government costs when the Tribal government is operating as the Grantee.
- D. The criteria for allowable State Management Administrative Costs are included in Office of Management and Budget (OMB) Circular A-87.
- E. In the course of research on the subject of payment of contractor assistance in Grantee management tasks, FEMA determined that it, incorrectly, had been providing a Statutory Administrative Costs allowance on State Management Administrative Costs *PWs*. The statutory definition of "associated expenses" and the use of OMB Circular A-87 as the guidance for paying State Management Administrative Costs preclude adding the Statutory Administrative Costs allowance onto the State Management Administrative Costs *PW*. While the sum typically is not large, it still should be deducted manually from a NEMIS generated *PW*, if it is included.
- F. The Disaster Mitigation Act of 2000 provides for the establishment of management cost rates that will include "any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project...." When those rates are published, appropriate portions of this policy will be superseded.

## 7. Policy:

- A. Grantee. Reasonable costs of contractors performing eligible Grantee functions in managing the Public Assistance Program are eligible as State Management Administrative Costs.
  - 1) The eligible Grantee management functions are identified in 44 CFR 206.228. They include expenses such as costs associated with the preparation of *PWs*, project applications, reports, audits, and related field inspections.
    - a) Reasonable regular time, supplies, materials and equipment costs of contractors necessary to manage the Public Assistance Program in accordance with the regulations and State or Tribal Public Assistance Administrative Plan are eligible as State Management Administrative Costs. Since only reasonable costs will be eligible, the States and Tribes are encouraged to negotiate cost rates and contract duration with FEMA prior to disaster declarations and prior to the hiring of contractors.
    - b) The contractor's expenses for overtime work, per diem and travel are eligible as a direct charge of State Management Administrative Costs. They are not considered a part of Statutory Administrative Costs.

- 2) In order for any significant amount of contractor assistance to be used in a disaster, the basic State or Tribal Public Assistance Administrative Plan must assess State or Tribal capability to manage an infrastructure disaster recovery grant and must acknowledge any potential need for a significant level of contractor assistance. In addition, the amendments to the State or Tribal Public Assistance Administrative Plan for each disaster (submitted in accordance with 44 CFR 206.207(b)) must include all proposed uses of contractors as part of the staffing plan for that disaster. The staffing plan must identify specific contractor functions, cost rates, and contract duration. It also must include Grantee staffing at a reasonable level, and provide for sufficient Grantee staffing to assure adequate contractor oversight and program management. The contractor's expenses will not be an eligible cost unless FEMA approves the staffing plan and finds it reasonable.
  - 3) Contracts must adhere to the requirements of 44 CFR 13.36.
  - 4) For the purposes of this policy in distinguishing between Grantee employees and contractors, a Grantee employee is any person directly employed by the Grantee (i.e., the Grantee executes payroll deductions for benefits and taxes). The employees may be regular full time, regular part time or extra hires for management purposes. The employees may be from another State agency or department. Regardless of their employment source, such employees will be subject to this policy as Grantee employees.
  - 5) The State Management Administrative Costs *PWs* are not part of the base for calculating additional Grantee Statutory Administrative Costs (also known as the Administrative Allowance or sliding scale). The *PW* designation for Management *PWs* covering Grantee management and contractor costs is category Z, code 852.
  - 6) Grantee costs associated with developing work plans for contractors or managing contractor work are eligible State Management Administrative Costs.
- B. Subgrantee. The costs of subgrantee contractors performing subgrantee functions in managing and administering the Public Assistance grants are to be paid from the subgrantee's Administrative Allowance.
- C. Project Management. Eligible project management costs directly related to specific eligible projects can be included in the *PWs* for the eligible projects.
- D. Multiple Tasks - Single Contractor. In very rare cases, the same contractor may be employed to perform grant management functions for the Grantee, and also perform subgrantee administrative or construction management functions. In such cases, there must be separate contracts, or the costs for each function must be clearly delineated in the contract and separated in the billing and payment process. Separate contracts generally will be the clearest basis for separating costs. Contractors on one contract may not oversee their own work performed under another contract, nor oversee other work which may create a conflict of interest situation.

E. Contractor costs for performing management duties of the Grantee will be approved using a State Management Administrative Costs *PW*. Contractor costs for performing management and administrative duties of the subgrantee are covered in the subgrantee's Statutory Administrative Costs. Construction management costs either will be approved using a separate *PW* or be part of a construction *PW*.

**8. Supersession:** This policy updates and replaces relevant provisions of previous public assistance policy documents.

**9. Reference:** Office of Management and Budget Circular A-87.

**10. Authorities:** Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, Section 406; 44 CFR 206.44, 206.207 and 206.228.

**11. Originating Office:** Infrastructure Division, Response and Recovery Directorate.

**12. Review Date:** Five years, except for the provisions that will be superseded with the implementation of Section 324 ("Management Costs") of the Disaster Mitigation Act of 2000.

**13. Signature:**

*Signed*

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**14. Distribution:** Regional Directors, Regional and Headquarters R&R Division Directors