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FEMA

October 19,2007

Col. Perry Jeff Smith, JR.,CPA
Acting Director Governor's Office of Homeland Security and Emergency Preparedness
7667 Independence Boulevard Baton Rouge, Louisiana 70806

RE: Procurement requirements

Dear Colonel Smith:

This letter is in response to your inquiry on September 11,2007, to Robert Picarazzi, Mitigation Section Chief, regarding whether competitive bidding requirements apply to individual homeowners when they are included in a Hazard Mitigation Grant Program (HMGP) award. Although FEMA has previously provided this guidance in e-mail form, you asked for formal transmittal of FEMA's Position. The initial question arose in part due to the many homeowners that have participated in the State of Louisiana's Road Home (RH) program, some of whom may also become participants in an HMGP project.

This guidance clarifies the procurement requirements for homeowners that obtain contractors to perform activities funded through an HMGP award. In short, there is no requirement that homeowners must comply with the federal procurement regulations for competitive bidding.

Most projects anticipated for HMGP consideration involve elevations or retrofits of private homes or privately owned structures. These projects are in addition to the proposed HMGP project that includes homes submitted via the RH program.

The HMGP is a state administered federal grant program. Once a property is verified as eligible for HMGP and the project is approved, funding will be released to the state. The homeowner will receive those funds via the project applicant, which is usually the local government. Generally only a small Portion of funds (if any) are released in advance of work.

The homeowner would then secure a contractor and complete the mitigation activity. This would be verified by the applicant, via quarterly project reviews and reporting, as meeting our approved scope of work and reasonable costs requirements of OMB Circular A-87. The homeowner must submit receipts to be reimbursed for the completed work throughout the project implementation.

Please note that FEMA grants are awarded based on cost estimates and the actual costs are reimbursed based on reasonable expenditures. FEMA will reimburse necessary and reasonable costs, which are requirements of OMB Circulars and 44 CFR § 13. FEMA and the State have several methods of evaluating that the estimated costs proposed in the application are reasonable and necessary for the grant.

FEMA has provided unit cost guides for specific activities. Accepted industry Standards (Marshall & Swift or RS Means Construction Cost Guides) are generally used as the basis for costs and cost-effective analysis. We believe that these guides represent necessary and reasonable costs associated with HMGP grant awards.

The grantee (state) must ensure proper project management and fund accountability. In mitigation matters, 44 CFR § 206.433(a), provides, "The state will be the Grantee to which funds are awarded and will be accountable for the use of those funds." Also, § 206.438(a) provides, "The State serving as grantee has primary responsibility for project management and accountability of funds as indicated in 44 CFR Part 13."

The intent of procurement regulations are to ensure that grantees and subgrantees follow established open market practices when securing public work, but it is not feasible to impose those criteria on individual homeowners for mitigation activities. If the subgrantee monitors (including reporting and documentation) the project and ensures that the full scope of work is met within reasonable cost guidelines, sufficient documentation of the appropriate use of federal funds is assured.

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With regard to encouraging minority contractors and local labor, which is addressed in 44 CFR§ 13, both GOHSEP and FEMA have outreach and education resources to promote awareness of potential work available resulting from federal grant awards. The State or applicant could also provide homeowners a list of licensed contractors, including those owned or operated by minorities or women.

To summarize, individual homeowners are not required to comply with federal procurement criteria in selecting contractors for their approved mitigation projects. We do advise that any provider be licensed, insured or otherwise certified to perform the specific work for which they are contracted. The State may impose any additional restrictions or conditions as it sees fit.

Please contact Franki Coons, Deputy Section Chief, Mitigation Programs, at (504) 762-2545 if you have any question, concerning the process or the status of this review.

Sincerely,

James W. Stark
Director Louisiana Transitional Recovery Office

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cc: David I. Maurstad Assistant Administrator, Mitigation Division, FEMA HQ
Bill Peterson, Administrator, FEMA Region VI
Gil Jamieson, Associate Deputy Administrator, GCRO
Colonel Tom Kirkpatrick, SCO, GOHSEP
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