

**Grant Programs Directorate Information Bulletin
No. 458a**

December 16, 2020

MEMORANDUM FOR: All State Administrative Agency Heads
All State Administrative Agency Points of Contact
All State Homeland Security Directors
All State Emergency Management Agency Directors

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Agency

SUBJECT: **Clarifying Guidance for the Annual Emergency Management Performance Grant (EMPG) and the FY 2020 COVID-19 EMPG Supplemental (EMPG-S) Programs**

I. Purpose

This Information Bulletin (IB) provides clarifying guidance on certain allowable costs and meeting the cost share/match requirements for the annual EMPG and Fiscal Year (FY) 2020 EMPG-S programs. *It updates IB No. 458 to expand the allowable use of FY 2020 EMPG-S funding – for purposes of real property or construction costs only – to include the prevention of, preparation for, and response to coronaviruses in general, not just Coronavirus Disease 2019 (COVID-19).*

II. Applicability

This IB is applicable to recipients and subrecipients of all Fiscal Year FY 2020 EMPG-S awards and all annual EMPG awards that are open as of the date of issuance of this IB.

III. Guidance

A. Cost Share/Match Requirements and Allowability. This section provides additional guidance regarding the cost share or match requirement under the annual EMPG and FY 2020 EMPG-S programs, as stated in the Notices of Funding Opportunities (NOFOs) for each program.

1) Cost Share/Match Requirement. Both the EMPG and FY 2020 EMPG-S programs require a minimum 50 percent recipient cost share or match as stated in the NOFOs

for each program¹. The recipient contribution can be cash (hard match) or third party in-kind (soft match). See 2 C.F.R. § 200.306 for further guidance relating to cost sharing or matching.

- 2) *Use of Another Federal Award for Cost Share.* A grant recipient cannot use funds from another Federal award to meet the annual EMPG and/or FY 2020 EMPG-S cost share requirements unless the other Federal agency permits the use of the program funds for that purpose. See 2 C.F.R. § 200.306(b)(5).
 - i. In the case of the annual EMPG and FY 2020 EMPG-S awards, Treasury has indicated that its Coronavirus Relief Fund (CRF) payments can be used to meet the non-Federal cost share requirements to the extent that the cost share entails expenses that satisfy eligibility criteria under both the CRF and the annual EMPG or FY 2020 EMPG-S programs (as applicable). For additional information visit Treasury’s [Coronavirus Relief Fund Frequently Asked Questions](#).²
 - ii. If a recipient or subrecipient wants to use another Federal agency’s funding, including CRF, to cover the non-Federal cost share of a Federal Emergency Management Agency (FEMA) grant, it should confirm with that other Federal agency that doing so is an allowable use of those other funds. Examples may include through express permission in the terms of the other Federal award or confirmation from the agency itself.
 - iii. FEMA is not responsible for any impermissible outlays a recipient or subrecipient may make under another agency’s program. It is the responsibility of the recipient or subrecipient both to ensure the other Federal agency permits its funds being used as a non-Federal cost share and to verify whether the expenses associated with the cost share amount are otherwise allowable under that Federal award and program.
- 3) *Soft Cost Share/Match Allowability.*
 - i. In cases where the recipient or subrecipient chooses to apply a soft match (third-party in-kind), the match must be permissible under the scope of the particular award and otherwise allowable under the prescribed terms of the annual EMPG or FY 2020 EMPG-S program and award, as applicable. In addition, the dollar value

¹ In accordance with 48 U.S.C. § 1469a, and as described in the NOFOs, cost-match requirements are waived for the insular areas of the U.S. territories of American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

² For cost match, the relevant Treasury guidance comes from Question 49 of the frequently asked questions (FAQs), which provides:

Are States permitted to use Coronavirus Relief Fund payments to satisfy non-Federal matching requirements under the Stafford Act, including “lost wages assistance” authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-Federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act.

See U.S. Treasury, *Coronavirus Relief Fund Frequently Asked Questions* (updated Sept. 2, 2020), p. 10, available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

of the cost share/match must be limited to the amount associated with the allowable annual EMPG or FY 2020 EMPG-S activity. Further, consistent with other grant programs that allow a soft match, the recipient or subrecipient must be able to provide appropriate documentation to corroborate the claimed soft match and prove that the relevant portion of the soft match has been applied to only one Federal grant program. *See generally* 2 C.F.R. § 200.306(b).

- ii. In accordance with 2 C.F.R. § 200.306, the value of third-party volunteer services and property donations, including donating buildings or land for construction/facilities acquisition projects or long-term use, may qualify as a soft match under the annual EMPG and FY 2020 EMPG-S programs. As explained above, the match must be permissible under the scope of the particular award and otherwise allowable under the prescribed terms of the annual EMPG or FY 2020 EMPG-S program and award, as applicable. In addition, for the FY 2020 EMPG-S program, FEMA cautions that the recipient or subrecipient should consider whether real property acquired or improved under an EMPG-S award will continue to support COVID-19 prevention, preparedness, or response after the current public health emergency ends or whether any real property will continue to support more general coronavirus prevention, preparedness, and response activities. See Section D.3 below regarding real property use and disposition requirements.

B. FY 2020 EMPG-S Allowable Costs and Related Soft Match Guidance.

- 1) Clarification of FY 2020 EMPG-S Allowable Costs. In general, allowable costs under the FY 2020 EMPG-S program parallel that of the annual EMPG Program, with the exception that FY 2020 EMPG-S funded activities must assist State, local, tribal, and territorial (SLTT) emergency management agencies with preventing, preparing for, and responding to the COVID-19 public health emergency. Therefore, the use of FY 2020 EMPG-S funding must be limited to those costs directly associated with emergency management activities and expenses that directly support the COVID-19 public health emergency.
 - i. For example, SLTTs can use FY 2020 EMPG-S funding to expand their Emergency Operations Center (EOC) activities in support of the COVID-19 emergency. However, use of FY 2020 EMPG-S funding to support the costs associated with normal, steady-state EOC operations (i.e. not associated with the COVID-19 emergency) would not be allowable, though such costs are allowable under the annual EMPG program.
 - ii. As another example, some SLTT agencies have seen a significant increase in E-911 activity since the beginning of the COVID-19 emergency. FY 2020 EMPG-S funding may be used to support the *additional* COVID-19 related costs but may not be used for normal (budgeted) E-911 costs that are not COVID-specific and are beyond the scope of the FY 2020 EMPG-S.
 - iii. These examples supplement, and are not intended to limit, the guidance and requirements regarding allowable costs in the FY 2020 EMPG-S NOFO.
- 2) Clarification of FY 2020 EMPG-S Soft Match Allowability. The foregoing explanation also applies to any in-kind match. Referring to the E-911 example above, some of a state's E-911 operating costs – those based on COVID-19 related activities – may be applied to the 50 percent cost share requirement. However, the dollar value

associated with the soft match must be limited to that portion of the state's operating costs that are attributable to the COVID-19 emergency (e.g., based on the percentage increase in calls that are COVID-19 related). In addition, the state's soft match may be applied to only one Federal grant program. *See* 2 C.F.R. § 200.306(b)(2). In other words, if the state is using certain funds to satisfy the cost share requirement for another Federal program, the state cannot use those same funds to meet the matching requirement for the FY 2020 EMPG-S program.

C. Allowable Equipment

1) Supplemental FY 2020 EMPG-S Guidance.

- i. In accordance with Appendix A of the [FY 2020 EMPG-S Notice of Funding Opportunity \(NOFO\)](#), FY 2020 EMPG-S funding may be used to purchase equipment included in the following sections of the [Authorized Equipment List \(AEL\)](#):
 - Personal Protective Equipment (PPE) (Section 1)
 - Information Technology (Section 4)
 - Interoperable Communications Equipment (Section 6)
 - Detection Equipment (Section 7)
 - Decontamination Equipment (Section 8)
 - Medical Equipment (Section 9)
 - Power Equipment (Section 10)
 - Physical Security Enhancement Equipment (Section 14)
 - CBRNE Logistical Support Equipment (Section 19)
 - Other Authorized Equipment (Section 21)
- ii. The AEL is currently being updated to include the FY 2020 EMPG-S program on the applicable equipment pages identified above. ***In the interim, where the AEL language conflicts with or appears to be inconsistent with the FY 2020 EMPG-S NOFO guidance, the FY 2020 EMPG-S NOFO takes precedence.*** Therefore, all equipment listed in the AEL sections outlined above is considered allowable under the FY 2020 EMPG-S program. However, as with all FY 2020 EMPG-S funded investments, the recipient or subrecipient must demonstrate that the purchase of such equipment is necessary to prevent, prepare for, and respond to the COVID-19 public health emergency.

2) Allowable Equipment Guidance Applicable to Both the Annual EMPG and FY 2020 EMPG-S Programs: Situations Requiring Prior Approval.

- i. In general, with exception of critical emergency supplies and the associated inventory management plan³, equipment included in the AEL may be purchased without separate approval from FEMA. However, as with all grant-funded activities, the equipment purchase must be well justified and reasonable. Furthermore, in the case of annual EMPG and FY 2020 EMPG-S funded

³ In accordance with the FY 2020 EMPG and EMPG-S NOFOs, critical emergency supplies—such as shelf stable products, water, and basic medical supplies—are an allowable expense under EMPG-S. Each state must have DHS/FEMA's approval of a five-year viable inventory management plan prior to allocating grant funds for stockpiling purposes. The inventory management five-year plan should include a distribution strategy and related sustainment costs if the grant expenditure is over \$100,000.

equipment, the purchase must be supported by the approved work plan in accordance with guidance outlined in the applicable annual [EMPG](#) or FY 2020 [EMPG-S](#) NOFO. If the equipment is not clearly supported by the approved work plan, the recipient must seek advance approval from the applicable [FEMA Regional Grant Program Office](#) prior to purchasing the equipment, and an updated work plan may be required.

- ii. FEMA will consider requests to purchase equipment that is not listed in the AEL on a case-by-case basis. Such requests should be submitted in writing to the applicable [FEMA Regional Grant Program Office](#). FEMA's review and approval of such requests will involve both the FEMA regional office and GPD program staff to ensure nationwide consistency in the decision-making process and to support any necessary updates to the AEL.

D. Allowable Construction Costs

1) Allowable Costs.

- i. Construction and renovation costs are allowable under both the annual EMPG and FY 2020 EMPG-S programs. However, as is required for all FY 2020 EMPG-S funded investments, all construction activities funded through the FY 2020 EMPG-S must support preventing, preparing for, and responding to the COVID-19 public health emergency.
- ii. Although the annual EMPG and FY 2020 EMPG-S NOFOs and supplemental EMPG guidance contained in the [Preparedness Grants Manual](#) (PGM) refer only to construction of a primary EOC (annual EMPG and FY 2020 EMPG-S) and communication towers (annual EMPG only), these examples are not intended to exclude other construction projects as potentially allowable costs under both programs. For example, construction of a facility for the storage of critical emergency supplies, as a Point of Distribution (POD) for emergency distribution, and/or to serve as a staging area for deployment of emergency response resources is potentially an allowable expense under both programs. Other construction or renovation projects, such as a secondary or local EOC, will be considered on a case-by-case basis, as described below in the guidance regarding advanced written approval.

- 2) Advance Approval Requirement. As required in the NOFOs and PGM guidance, recipients must receive advance written approval from DHS/FEMA prior to the use of any annual EMPG or FY 2020 EMPG-S funds for construction or renovation, including such activities at the sub-recipient level. Such costs would need to fall within the scope of the recipient's final approved Work Plan. Otherwise, an updated Work Plan may be required. In addition, all other requirements specific to construction and renovation activities as outlined in the applicable NOFO, including but not limited to required Environmental and Historic Preservation (EHP) review, shall apply. Such requests should be submitted in writing to the applicable [FEMA Regional Grant Program Office](#). FEMA's review and approval will involve both the regional office and FEMA GPD.

3) Real Property Use and Disposition Requirements.

- i. Real property improved under a Federal award falls under the 2 C.F.R. Part 200 guidance for real property. In accordance with 2 C.F.R. § 200.311, a recipient or

subrecipient may only use real property acquired or improved under a Federal award for the originally authorized purpose, as long as it's needed for that purpose, during which time the recipient or subrecipient must not dispose of or encumber its title or other interests. However, upon the end of that period where it needs the property for the originally authorized purpose (i.e., the functional use of the property for which FEMA awarded the grant), the recipient or subrecipient will then dispose of the property in keeping with the requirements set forth in 2 C.F.R. § 200.311.

- ii. When a grant-funded property is no longer needed for the originally authorized purpose, the recipient or subrecipient (through the pass-through entity) must obtain disposition instructions from the cognizant FEMA Regional Administrator or the pass-through entity.
- iii. *Considerations Unique to the FY 2020 EMPG-S:*
 - a. ***FEMA GPD is expanding the purpose under the FY 2020 EMPG-S just for purposes of real property or construction costs to be for the prevention of, preparation for, and response to coronavirus. This is beyond just COVID-19. See Coronavirus Aid, Relief, and Economic Security (CARES) Act, Div. B, Pub. L. No. 116-136. . See 2 C.F.R. § 200.311(b).***
 - b. When planning to use FY 2020 EMPG-S funding for construction activities, FEMA cautions that the recipient or subrecipient should consider whether the property will continue to support coronavirus-related prevention, preparedness, and response activities after the current public health emergency has ended. As noted above, the disposition requirements take effect when the property is no longer being used for the originally authorized purpose. Therefore, in cases where the construction activity is funded through the FY 2020 EMPG-S program, the recipient may only retain the real property beyond the initial period associated with the COVID-19 public health emergency as long as the risk of a future coronavirus outbreak remains, the property is needed to address those risks, and it continues to be used for its original authorized purpose.
 - c. Notwithstanding the above, recipients and subrecipients should be prepared to dispose of the FY 2020 EMPG-S funded real property and satisfy its financial responsibilities to FEMA if and when the property is no longer being used to support coronavirus prevention, preparedness, and response activities. Disposition may include paying FEMA for its share in the current fair market value of the property or the sale price. FEMA's share would generally be calculated by applying the amount of FY 2020 EMPG-S funds in the cost of the original purchase (and costs of any improvements) to the fair market value of the property or the proceeds of the sale of the property.⁴

E. Acquisition of Real Property

⁴ FEMA notes that these requirements governing the disposition of real property acquired or improved with Federal grant funding equally apply to the annual EMPG program, but FEMA is emphasizing these requirements with respect to the FY 2020 EMPG-S because the originally authorized purposes of the FY 2020 EMPG-S are more limited than the annual EMPG program.

- 1) Allowable Costs. Acquisition of real property is permissible under both the annual EMPG and FY 2020 EMPG-S programs if such property is needed to support other allowable program costs or activities.
- 2) Advance Approval Requirement. Consistent with the requirements outlined above regarding construction activities, **recipients and subrecipients** (through the pass-through entity) **must obtain advance written approval from the cognizant FEMA Regional Administrator prior to obligating annual EMPG or FY 2020 EMPG-S funds for acquisition of real property**. Additionally, in cases of acquisition or improving real property, recipients are required to submit a [SF-429-B](#), Real Property Status Report, Attachment B providing details of the relevant property to be acquired.
- 3) Property Use, Reporting, and Disposition Requirements.
 - i. The acquisition, use, and disposition of real property shall be subject to the provisions of 2 C.F.R. Part 200. In accordance with 2 C.F.R. Part 200, recipients and subrecipients are required to report on the status of the acquired property on an annual basis using [SF-429-A](#) Real Property Status Report, Attachment A (General Reporting). Such reporting shall continue as long as the property is being used for the originally authorized purpose.
 - ii. The same use and disposition guidance as outlined in Sections III.D.3 above applies to real property acquired with annual EMPG or FY 2020 EMPG-S funds.

F. Leasing of Real Property

- 1) Allowable Costs and Advance Approval Requirement. Leasing of real property is permissible if the property is needed to support other allowable annual EMPG or FY 2020 EMPG-S activities. **Recipients and subrecipients** (through the pass-through entity) **must obtain advance written approval from the cognizant FEMA Regional Administrator prior to obligating annual EMPG or FY 2020 EMPG-S funds for the leasing of real property**.
- 2) Allowable Period of Lease Expenses. In cases where a property will be leased and the lease will be paid in full or in part using annual EMPG or FY 2020 EMPG-S funds, any costs associated with the lease that are charged to an annual EMPG or FY 2020 EMPG-S award must occur within the period of performance of the associated award(s).

IV. Questions

For questions regarding the annual EMPG and FY 2020 EMPG-S programs or allowable expenditures, please contact the applicable [FEMA Regional Grant Program Office](#) or consult the annual [EMPG](#) or FY 2020 [EMPG-S](#) NOFO and the PGM.

V. Review Date

This IB will sunset upon closure of all impacted annual EMPG and FY 2020 EMPG-S awards. The guidance applicable to the annual EMPG program, as outlined in this IB, will be incorporated into future annual EMPG NOFOs.