

Purchasing Under a FEMA Award: Prepare Before a Disaster

FEMA grant programs are subject to the federal procurement rules found at [2 C.F.R. §§ 200.317 – 200.327](#). This fact sheet details information on contracting actions FEMA award recipients and subrecipients can take before a disaster strikes. The information is applicable to FEMA award recipients and subrecipients purchasing under FEMA grant awards or declarations issued on or after November 12, 2020. For additional information, please also refer to [Procurement Disaster Assistance Team \(PDAT\) Field Manual](#).

Contracting Actions Before a Disaster

Taking appropriate contracting actions before a disaster strikes, enables FEMA award recipients and subrecipients to respond quickly in emergency situations, make recovery decisions in a lower-pressure environment, and avoid additional costs associated with last-minute contracts. In addition to reviewing the applicable federal procurement standards, below are contracting actions a non-federal entity can take to prepare for a disaster.

Review Applicable Federal Rules

Non-federal entities (NFEs), which include state, local, tribal, and territorial governments, are better positioned to contract in response to an emergency or major disaster when they have written procurement policies and procedures and understand which federal procurement rules apply to their organization. The following outline the federal rules applicable to state and non-state entities.

- States, the District of Columbia, territories and their agencies and instrumentalities, must follow their own documented procurement policies and procedures when purchasing under a FEMA award pursuant to [2 C.F.R. § 200.317](#). These entities must also comply with socioeconomic affirmative steps ([2 C.F.R. § 200.321](#)), requirement for domestic preferences ([2 C.F.R. § 200.322](#)), the requirements for procurement of recovered materials ([2 C.F.R. § 200.323](#)), and ensure that all necessary contract provisions are included in their contracts ([2 C.F.R. § 200.327](#)).
- NFEs other than states, collectively referred to as non-state entities, include local governments, tribes, and eligible private nonprofit organizations. They must have documented procurement policies and procedures, which reflect applicable local, state, or tribal law, and ensure compliance with the federal requirements listed at [2 C.F.R. §§ 200.318 – 200.327](#).



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In the case of noncompliance with the federal procurement rules, FEMA may apply a remedy, as appropriate, in accordance with its authorities found at [2 C.F.R. § 200.339](#). See Chapter 2: Applicability of the Federal Procurement Under Grant Standards of the [PDAT Field Manual](#) for additional information.

Create Prequalified Lists

FEMA award recipients and subrecipients may use prequalified lists of persons, firms, and products when purchasing under a FEMA award. Having a list of prequalified vendors may save a recipient or subrecipient time because they allow them to review contractor qualifications (including financial and technical resources) before a disaster. Pursuant to [2 C.F.R. § 200.319\(e\)](#), non-state entities must do the following when using prequalified lists:

- Ensure that all prequalified lists are current and include enough qualified sources to ensure maximum full and open competition; and
- Not exclude potential vendors from qualifying during the solicitation period.

NOTE: Prequalified lists are not contracts. For more information on prequalified lists please reference Chapter 4, Section 4: Prequalified Lists of the [PDAT Field Manual](#).

Award Prepositioned Contracts

FEMA encourages recipients and subrecipients to award prepositioned contracts, or advance contracts, before an incident occurs for the potential performance of work under the FEMA award. Use of prepositioned contracts allows entities to conduct a deliberate procurement process outside of the pressure and immediate demands of a disaster. It also helps ensure contractors are readily available to perform work quickly after an incident occurs. When using a prepositioned contract, state and non-state entities must ensure that:

- The contract was procured in compliance with the applicable procurement rules for its entity type (state or non-state); and
- The contract's scope of work adequately encompasses the type and extent of future work. Failure to do so may result in an out-of-scope modification, also known as a "cardinal change," which FEMA will generally view as noncompetitive award. (State entities must ensure out of scope changes are consistent with their own procurement policies and procedures.)

If using a prepositioned contract, entities must ensure the price is considered reasonable in the current market environment. They must also check [SAM.gov | Home](#) to verify that the contractor is not suspended or debarred. See Chapter 13: Section 7 Prepositioned Contracts for Disaster Grants of the [PDAT Field Manual](#) for additional information.

Table 1: Prepositioned and Post-Incident Contracts

| | Prepositioned Contracts | Post-Incident Contracts |
|-------------------------|--|---|
| What They Are | <ul style="list-style-type: none"> When an entity solicits and awards a contract before an incident occurs for the potential performance of post-disaster work. Also referred to as “advanced contracts.” | <ul style="list-style-type: none"> When an entity solicits and awards a contract after an incident occurs for the performance of post-disaster work. |
| Benefits | <ul style="list-style-type: none"> Respond quickly in emergency situations Make recovery decisions in a lower stress environment Avoid additional costs associated with last minute contracts | <ul style="list-style-type: none"> Scope of work consistent with recovery needs |
| Areas of Concern | <ul style="list-style-type: none"> Scope of work must include future disaster work (State entities should ensure scope changes are consistent with their own procurement policies and procedures) | <ul style="list-style-type: none"> Impedes the ability to respond quickly in emergency situations Negotiated costs may be reflective of a high-demand environment (increased costs due to increase in demand) |

Additional Resources

This fact sheet is intended to provide general information on procurement compliance and is not inclusive of every rule with which recipients and subrecipients must comply. Additional information regarding the federal procurement under grants rules can be found at the following webpage: [Contracting with Federal Funds for Goods and Services Before, During and After Disasters | FEMA.gov](https://www.fema.gov/procurement).