

FEMA DR-4485-TX

Applicant Training on FEMA Emergency Protective Measures (Category B)



TRAINING OBJECTIVES



Eligible Category B Costs



Emergency and Exigency Circumstances



Non-Congregate Sheltering



Environmental/Historic Preservation Considerations



Note: this training is tailored specifically toward COVID-19 anticipated costs and FEMA guidance published for COVID-19.

Helpful Icons



Reminders



Tips

**CLICK
or
SCAN**

**Click the image to open link or scan image
with smartphone camera**



Eligible Category B Costs





What Costs are Eligible?

Category B- Emergency Protective Measures

Actions taken by a community before, during, and following a disaster to save lives, protect public health and safety

or

Actions taken to eliminate immediate threat of significant damage to improved public and private property through cost effective measures.





Examples of Category B Costs – Immediate Threats

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 on emergency management and control of immediate threats to public health and safety



An eligible public facility is one that a State, Territorial, Tribal, or local government owns or has legal responsibility for maintaining. More detail can be found in the PAPPG.





Examples of Category B Costs – Emergency Medical Care

- Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility
- Related medical facility services and supplies
- Use of specialized medical equipment
- Medical waste disposal
- Emergency medical transport





Examples of Category B Costs – Emergency Medical Care

**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)





Examples of Category B Costs – Medical Sheltering

Medical sheltering

When existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate current needs.





Examples of Category B Costs – Medical Sheltering

- All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC
- Sheltering 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





Other Examples of Category B Costs – General assistance provided to the public

- **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
- **Communications** of general health and safety information to the public





Other Examples of Category B Costs – Emergency services and salaries

- Security and law enforcement
- Search and rescue to locate and recover members of the population requiring assistance
- Reimbursement for overtime costs
- Straight time costs may also be eligible for certain force account employees.
- See FEMA's Public Assistance Program and Policy Guide (PAPPG) for further information.



TIP

FEMA refers to the Applicant's personnel as "force account."





Documentation To Begin Gathering

Following are lists of some of the documentation that will be required for FEMA reimbursement.

- The lists are not all-inclusive.
- See the PAPPG for further detail.





Typical Category B Cost Types & Documentation Requirements

Force Account Labor

- Fringe Benefit Calculation
- Personnel/Payroll Policy
- Timesheets to Support Claim Amount
- Payroll Register / Proof of Payment

Materials (Inventory)

- Inventory (Dated Prior to Disaster)
- Requisition Sheets *(If Available)*
- Quotes
- Invoices





Typical Category B Cost Types & Documentation Requirements

Force Account Equipment

- FEMA Equipment Rate
- Equipment Inventory
- Equipment Logs to Support Claim Amount
- Operator's Timesheets

Materials Purchases

- Proof of Proper Procurement
- Purchase Orders
- Invoices to Support Claim Amount
- Proof of Payment



Typical Category B Cost Types & Documentation Requirements

Contracts

- Procurement Policy
- Proof of Public Notice
- Notice to Bidders
- Bid Tabulation and Summary
- Bids / Quotes For Each Contract
- Bid Approval (Notice of Acceptance)
- EPLS Debarment Check
- Notice of Award
- Notice to Proceed
- Contract Signed by all Parties
- Change Orders
- Sole Source Justification
- Invoices to Support Claim Amount
- Proof of Payment





Typical Category B Cost Types & Documentation Requirements

Rented Equipment

- Bids / Quotes
- Bid Tabulation and Summary
- EPLS Debarment Check
- Purchase Orders
- Signed Rental Agreement
- Invoices in Support of Claim Amount
- Proof of Payment





Category B Costs - Reference

For more information see:

Eligible Emergency Protective
Measures Fact Sheet



FEMA Public Assistance Program
and Policy Guide (PAPPG)





TIP | Consider This

- **Designate your COVID-19 team:** Assign your accounting and human resources department responsibility for tracking COVID19 costs or designate a team.
- **Track Inventory:** Pull inventory records as of the date your entity began preparations for COVID19 AND as of March 12, 2020.
- **Devote a General Ledger Code** to your COVID-19 Expenses





TIP | Consider This

- **Ensure overtime is tracked** for permanent employees
| For unbudgeted employees, both straight time and overtime should be tracked with appropriate COVID-19 description.
- **Track your management costs:** this means keeping detailed timesheets of the employees performing grant management duties
- **Track your Donated Resources**

Emergency & Exigency Circumstances





Federal Emergency Declaration

FEDERAL requirements apply
because this is a **FEDERAL** disaster declaration





Emergency Circumstances

Definition of Emergency

A threat to life, public health or safety, or improved property that requires immediate action to alleviate the threat.





Exigency Circumstances

Definition of Exigency

A situation that causes a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to the applicant.

While emergency conditions generally are short-lived, exigent circumstances can exist for a period of weeks or months.





Authorization for Non-Competitive Contract Procurement

U.S. Department of Homeland Security
Washington, DC 20472

 **FEMA**

March 17, 2020

MEMORANDUM FOR: All States, Territories, Tribal Governments, Local Governments, and All Other Non-Federal Entities Receiving FEMA Financial Assistance

FROM: David Bibb 
Acting Associate Administrator
Office of Response and Recovery

Bridget E. Bean 
Assistant Administrator
Grant Programs Directorate

SUBJECT: Procurement Under Grants Conducted Under Emergency or Exigent Circumstances for COVID-19

Subsequent to the President's March 13, 2020 Nationwide Emergency Declaration for Coronavirus Disease 2019 (COVID-19), the Department of Homeland Security's Federal Emergency Management Agency (FEMA) is issuing the attached Fact Sheet addressing procurements made during periods of exigent or emergency circumstances. FEMA recognizes that noncompetitive procurements may be necessary to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of a catastrophe. The attached Fact Sheet provides answers and guidance surrounding the need for such measures.

Current Federal procurement standards (found at 2 C.F.R. § 200.320(f)(2)) allow non-state entities to noncompetitively procure contracts (i.e., sole-sourcing) under certain emergency or exigent circumstances. FEMA defines an emergency or exigent circumstances as unexpected and unusually dangerous situations requiring immediate action or an urgent need for assistance or relief. Emergencies typically involve a threat to life, public health or safety, improved property, or some other form of dangerous situation. Exigencies, on the other hand, typically involve an urgent need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise. Under both an emergency and exigency, using a competitive procurement process would prevent a non-state entity from taking immediate action required to address the situation. However, use of the emergency/exigency exception is only permissible during the actual emergency or exigent circumstances.

The...Nationwide Emergency Declaration... establish that exigent and emergency circumstances currently exist for COVID-19. For the duration of the Public Health Emergency, which **began January 27, 2020**...local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing noncompetitively procured contracts...





Purchasing under Exigent or Emergency Circumstances

Costs must still be reasonable.

All efforts must be fully documented.

Once the documented exigency or emergency period ends, Applicants must transition to a procurement process that includes full and open competition



Purchasing under Exigent or Emergency Circumstances

What Federal Procurement Requirements Still Apply During Exigent or Emergency Circumstances?

Contracts must include the required contract clauses

Must complete a cost or price analysis if contract exceeds the Federal simplified acquisition threshold

Contracts must be awarded to a responsible contractor

Use of cost-plus-percentage-of-cost contracting is prohibited

Time & material contracts are only allowed if no other contract is suitable and if the contract includes a ceiling price





Required Contract Provisions

- All contracts must contain the applicable clauses described in Appendix II to the Uniform Rules.
- FEMA offers a “[Contract Provisions Template](#).”



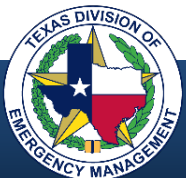
	Required Provision	Contract Criteria	Sample Language?
1.	Legal/contractual/administrative remedies for breach of contract	> SAT (\$250k)	No. It is based on applicant's procedures.
2.	Termination for cause or convenience	> \$10k	No. It is based on applicant's procedures.
3.	Equal Employment Opportunity	Construction Work	Yes. 41 CFR Part 60-1.4(b)
4.	Davis Bacon Act	Construction Work	Not applicable to PA grants
5.	Copeland Anti-Kickback Act	Construction Work > \$2,000	Not applicable to PA grants
6.	Contract Work Hours and Safety Standards Act	> \$100k + mechanics or laborers	Yes. 29 CFR 5.5(b)
7.	Rights to inventions made under a contract or agreement	Funding agreement	Not applicable to PA grants
8.	Clean Air Act and Federal Water Pollution Control Act	>\$150k	Yes
9.	Debarment and Suspension	All	Yes
10.	Bryd Anti-Lobbying Amendment	All (>\$100k: Certification)	Yes. Clause and certification
11.	Procurement of Recovered Materials	Applicant is a state or political subdivision of a state. Work involves the use of materials.	Yes
12.	Access to Records	All	Yes





Purchasing under Exigent or Emergency Circumstances

- Pre-existing contracts can be used for the duration of the exigency or emergency.
 - | If used, take actions to modify pre-awarded or pre-existing contracts to meet the federal requirements where applicable.
- Piggyback contracts are not allowed.
- FEMA prohibits non-competitive procurement of general consulting services after emergency/exigency conditions subside.





Purchasing under Exigent or Emergency Circumstances

- Applicants must maintain records sufficient to detail the history of a procurement.
- While FEMA approval is not required for noncompetitive procurement under the emergency or exigency exception, **you must document and provide justification** for the use of the exigent or emergency exception.



There is no required format for the procurement justification. It just needs to document the required information.





Purchasing under Exigent or Emergency Circumstances

1

- Identify that “the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.”

2

- Provide a brief description of the product or service being procured.

3

- Explain why a noncompetitive procurement is necessary.

4

- State how long the noncompetitively procured contract will be used.



A separate justification is required for each instance of noncompetitive procurement.



Purchasing under Exigent or Emergency Circumstances

5

- Describe the specific steps taken to determine that full and open competition could not have been used.

6

- Describe any known conflicts of interest.

7

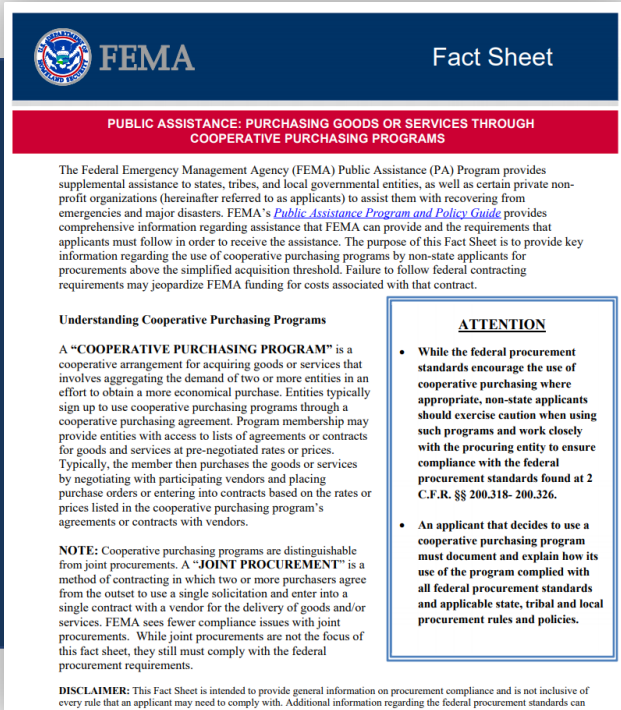
- Include any other information justifying the use of noncompetitive procurement in the specific instance.



A separate justification is required for each instance of noncompetitive procurement.



Purchasing under Exigent or Emergency Circumstances



Buy Boards and Cooperatives:

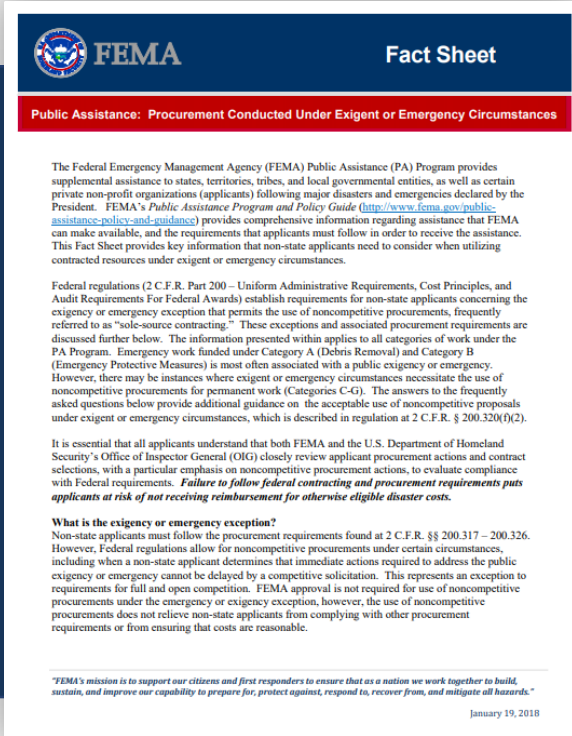
- **OK** as long as emergency/exigency is in place
- **MAY NOT BE OK** afterward (use caution and ensure additional measures are taken to ensure compliance with federal standard)

For more information see:





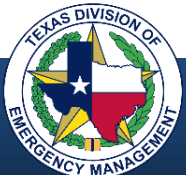
FEMA Reference Information



Detailed procurement and contracting information is available on the FEMA website.

Link to FEMA info on purchasing under emergency or exigency.

Additional fact sheets and procurement guidelines can be found using this link.



Non-Congregate Sheltering





Non-Congregate Sheltering

Congregate Sheltering:
Large group sheltering



Non-Congregate Sheltering: Sheltering where people are not congregated together in a large group



Non-Congregate Sheltering Requirements

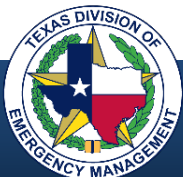
- **Must** be at the **direction of** and **documented through an official order signed** by a state, local, tribal, or territorial public health official.
- Any approval is **limited** to that which is **reasonable and necessary** to address the public health needs of the event and should not extend beyond the duration of the Public Health Emergency.
- Applicants **must** follow FEMA's **Procurement Under Grants Conducted Under Exigent or Emergency Circumstances** guidance and include a termination for convenience clause in their contracts.





Non-Congregate Sheltering Requirements - Continued

- Prior to approval, the applicant must provide an **analysis of the implementation options that were considered** and a justification for the option selected.
- **Funding cannot be duplicated** by another federal agency such as DHS or CDC.
- Environmental and Historic Preservation laws, regulations, and executive orders apply.





For More Information

Public Assistance: Non-Congregate Sheltering Delegation of Authority

Release date: March 19, 2020

Release Number: FACT SHEET

Under President Trump's March 13, 2020, national emergency declaration for the coronavirus (COVID-19) pandemic, FEMA's Regional Administrators have been delegated authority to approve requests for non-congregate sheltering for the duration of the Secretary of Health and Human Services' declaration of a Public Health Emergency for COVID-19.

In accordance with section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of state, local, tribal, and territorial public health officials may be reimbursed under Category B of FEMA's Public Assistance program.

FEMA recognizes that non-congregate sheltering may be necessary in this Public Health Emergency to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of a catastrophe. States, tribes and territories should work with their regional administrators for approval of noncongregate sheltering and procure the necessary support services needed to meet the needs of the public health emergency. The following criteria must be considered before setting up non-congregate sheltering and support services:

- The non-congregate sheltering must be at the direction of and documented through an official order signed by a state, local, tribal, or territorial public health official.
- Any approval is limited to that which is reasonable and necessary to address the public health needs of the event and should not extend beyond the duration of the Public Health Emergency.
- Applicants must follow FEMA's Procurement Under Grants Conducted Under Exigent or Emergency Circumstances guidance and include a termination for convenience clause in their contracts
- Prior to approval, the applicant must provide an analysis of the implementation options that were considered and a

More information on non-congregate sheltering can be found by following the link below.



Environmental/Historic Preservation (EHP) Considerations





EHP Considerations

While many Category B activities do not trigger Environmental/Historic Preservation requirements, some still do:

- Repurposing, renovating, or reusing existing facilities as temporary medical or sheltering facilities
- Placement of prefabricated facilities on a site
- Construction of new temporary medical or sheltering facilities
- Storage of human remains and mass mortuary services
- Staging resources on an undeveloped site
- Proper disposal of medical waste





Historic Preservation Information Requirements

For projects that do have the potential to adversely affect natural, historic, and/or archaeological resources, Applicants should be prepared to provide the following:

- Location of the work, including latitude/longitude in decimal degrees (to the fifth decimal point) and site address. Maps or aerial imagery of the project area is also helpful.
- Description of any ground-disturbing activities, including site preparation, laying new or expanding existing utilities, and expansion of existing footprints.
- Dates of construction for facilities that are being reused, repurposed, or renovated.
- Description of modifications made to existing facilities.
- Photographs of the project site or facility.





EHP Best Practices for Temporary Facilities

In order to minimize potential impacts or effects to natural and cultural resources, minority populations, and low-income populations:

- Avoid placement of temporary facilities
 - | in flood hazard areas and wetlands.
 - | in brownfields and other use restricted sites.
- **Ensure accessibility** across the full range of clients and/or customers that need to utilize the services being provided by these facilities, including elements of the population with less capacity or mobility.





EHP Best Practices for Temporary Facilities, continued

- **Select pre-disturbed sites or existing hardened surfaces**, such as parking lots, concrete pads, or artificial playing fields, whenever possible.
- **Avoid new ground disturbance** when possible.
- **If renovation of a facility is required, consider the impacts of renovation** (e.g. exposure to asbestos, lead-based paint, or other environmental contaminants associated with past use of the property)
- **Document conditions** by taking photographs before and after any work is carried out.





Best Practices for Disposal of Medical Waste and Decontamination Activities

- Follow state and local laws for disposal of medical waste.
- If disposing of medical waste, indicate if an existing site will be used.
- If a new disposal site is created, indicate if the waste will be landfilled or incinerated.
- Avoid/minimize run-off/disposal that enters stormwater systems or open waters.





Floodplain Considerations

- Even a slight chance of flooding can pose too great a threat to a critical facility
- Critical facilities are likely to have occupants who may not be sufficiently mobile to evacuate during a flood.
- Site considerations for such facilities must include an evaluation of flood risk.





Floodplain Considerations

- Determine if the site, as well as ingress and egress to the site, is in a Coastal High Hazard Area (Zone V), the Special Flood Hazard Area (SFHA, or 1-percent-annual-chance flood hazard area), or the 500-year floodplain (0.2-percent-annual-chance flood hazard area);
- If the site is located in any of these high-risk flood hazard areas, the facility should not be located at that site.





Floodplain Considerations

- If no practicable alternative sites exist, and the site must be used, an assessment of the type of flood hazards at the site should be conducted (e.g., flood velocity, flood depth, wave action, etc.), practicable opportunities for flood mitigation assessed, and a flood evacuation plan/emergency plan developed.
- The emergency plan should include a plan for site evacuation and contingency for loss of facility's function in the event the facility is damaged and can no longer serve its intended purpose.





EHP for more information

Office of Environmental Planning and Historic Preservation

The Environmental Planning and Historic Preservation (EHP) program integrates the protection and enhancement of environmental, historic, and cultural resources into FEMA's mission, programs and activities; ensures that FEMA's activities and programs related to disaster response and recovery, hazard mitigation, and emergency preparedness comply with federal environmental and historic preservation laws and executive orders; and provides environmental and historic preservation technical assistance to FEMA staff, local, State and Federal partners, and grantees and subgrantees.

Please use the links on the left to navigate to a variety of EHP Information.

Sign up for [GovDelivery updates](#) for the latest information

> [Expand All Sections](#)

> [Environmental Planning And Historic Preservation \(EHP\) Helps Communities Better Prepare For And Reduce The Impact Of Disasters On Valuable Natural And Cultural Resources.](#)

> [EHP Policy](#)

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For more information on the Office of Environmental Planning and Historic Preservation and EHP review, follow the link below.





REMINDERS

- Only Category B costs are eligible for this disaster
- Noncompetitive procurement is allowed during the emergency/exigency period. This period currently remains open
- Certain federal requirements still apply to contracts
- Do not duplicate other federal funding received for COVID-19





REMINDERS

- Non-Congregate sheltering is eligible with certain limitations/requirements
- Some Environmental/Historic Preservation requirements still apply
- Be aware of floodplain considerations
- If you have questions direct them to your TDEM Regional Unit Chief



TDEM REGIONAL UNIT CHIEFS

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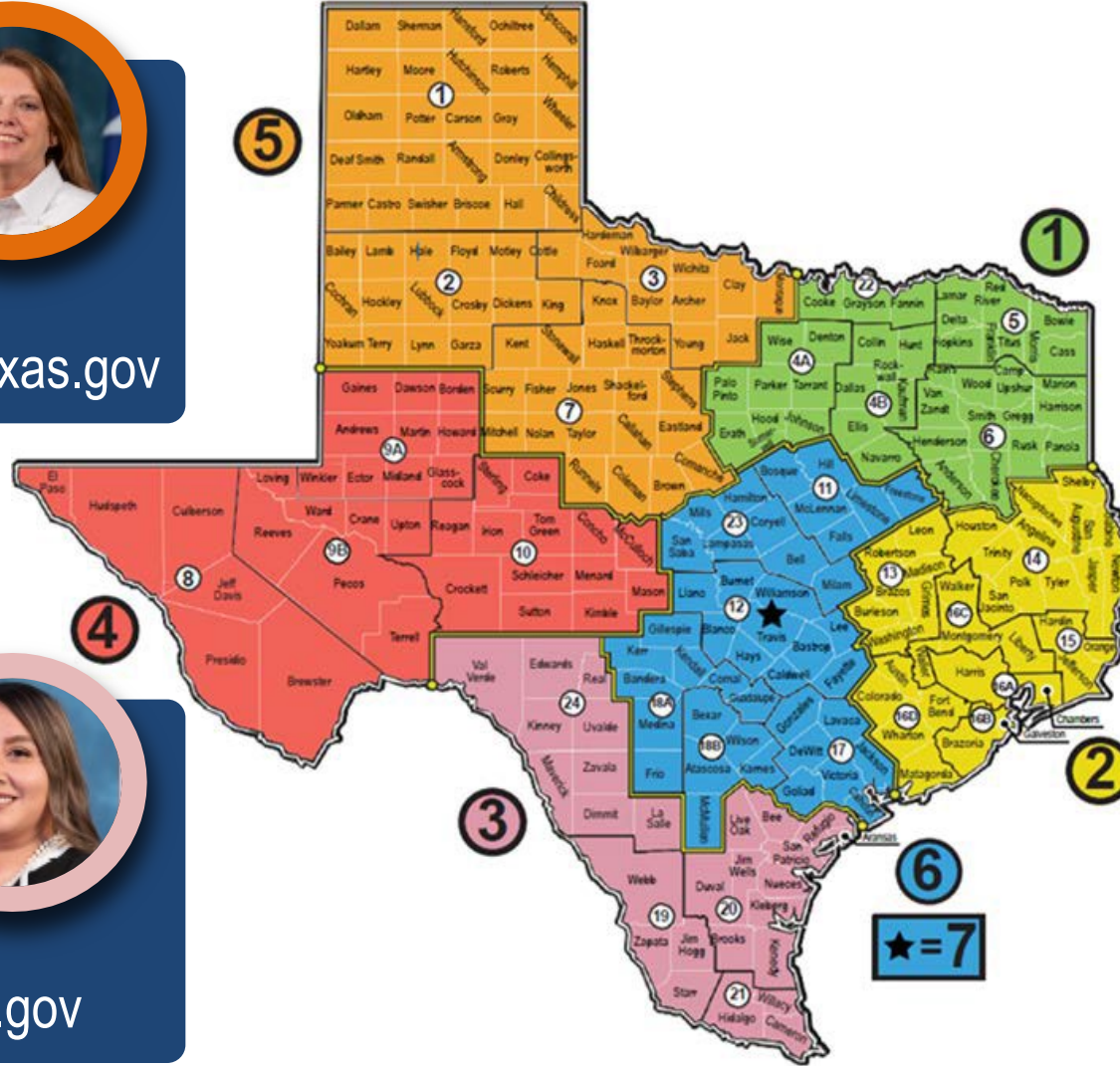
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Links



FEMA Eligible Emergency Protective Measures

<https://www.fema.gov/news-release/2020/03/19/coronavirus-covid-19-pandemic-eligible-emergency-protective-measures>



FEMA Public Assistance Program and Policy Guide (PAPPG)

<https://www.fema.gov/media-library/assets/documents/111781>



FEMA Authorization for Non-Competitive Contract Procurement

https://www.fema.gov/media-library-data/1584457999950-7186ffa29ace3e6faf2ca2f764357013/Procurement_Under_EE_Circumstances_Memo_final_508AB.pdf





Links



FEMA Contract Provisions Template

<https://www.fema.gov/media-library-data/1557346958767-7fe2febf2ef09f7c3d0d2411a9a718f7/PDATContractProvisionsTemplate.pdf>



FEMA Fact Sheet: Purchasing under Exigent or Emergency Circumstances

https://www.fema.gov/media-library-data/1537377634809-c9155038b6ab73a588451de71ad829c3/PA_Fact_Sheet_Purchasing_Through_Coops_9-18-2018_508_FINAL.pdf



FEMA PDAT Resources when Procuring with Federal Grant Funds

<https://www.fema.gov/procurement-disaster-assistance-team>





Links



FEMA Fact Sheet: PA Procurement Conducted Under Exigent/Emergency Circumstances
https://www.fema.gov/media-library-data/1537192764124-4c99f98f8cf5b63584ac80d252b0a9b5/EE_Procurement_PA_Fact_Sheet_1-18-2018_508_FINAL.pdf



FEMA Coronavirus (COVID-19) Response Additional Fact Sheets and Guidelines
<https://www.fema.gov/coronavirus>



FEMA Public Assistance: Non-Congregate Sheltering Delegation of Authority
<https://www.fema.gov/news-release/2020/03/19/public-assistance-non-congregate-sheltering-delegation-authority>



FEMA Office of Environmental Planning and Historic Preservation
<https://www.fema.gov/office-environmental-planning-and-historic-preservation>

