



STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Fiscal Committee members
From: Daniel Dickerson, Fiscal Analyst
Date: August 25, 2020
Subject: Grant Requests – JFO #3018

Enclosed please find one (1) item, which the Joint Fiscal Office has received from the Administration.

JFO #3018 – \$35,845,657 from the Federal Emergency Management Agency (FEMA) to the VT Dept. of Labor (VDOL). The funds will be used to provide retroactive supplemental unemployment benefits in the amount of \$300 per week for the weeks ending 8/1/20, 8/8/20, and 8/15/20. The funds come from the \$44 billion that was reallocated from the federal Disaster Relief Fund per the President’s executive order dated August 8, 2020. FEMA has authorized states to use existing unemployment payments towards the 25% state match requirement, and the intent of VDOL is to use this avenue. No new state funds will be obligated upon approval of this grant, per the Administration.

[JFO received 08/25/20]

Please review the enclosed materials and notify the Joint Fiscal Office (Daniel Dickerson at (802) 828-2472; ddickerson@leg.state.vt.us) if you have questions or would like an item held for legislative review. Unless we hear from you to the contrary by September 8, 2020 we will assume that you agree to consider as final the Governor’s acceptance of this request.

**STATE OF VERMONT
 FINANCE & MANAGEMENT GRANT REVIEW FORM**

Grant Summary:		To provide a supplemental unemployment benefit to eligible unemployment insurance claimants in the amount of \$300 per week			
Date:		8/24/2020			
Department:		Vermont Department of Labor 4100500000			
Legal Title of Grant:		Other Needs Assistance			
Federal Catalog #:		DHS FEMA 97.050 (FEMA DR-4532-VT)			
Grant/Donor Name and Address:		US Dept of Homeland Security - FEMA 500C ST SW, Washington DC 20024			
Grant Period:	From:	8/1/2020	To:	12/27/2020	
Grant/Donation		\$35,845,657			
	SFY 1	SFY 2	SFY 3	Total	Comments
Grant Amount:	\$35,845,657	\$	\$	\$	
Position Information:	# Positions	Explanation/Comments			
	0				
Additional Comments:					
Department of Finance & Management					(Initial)
Secretary of Administration					(Initial)
Sent To Joint Fiscal Office					Date



Daniel Dickerson

From: Wawrzyniak, Chad <Chad.Wawrzyniak@vermont.gov>
Sent: Tuesday, August 25, 2020 10:19 AM
To: Aronowitz, Jason; Daniel Dickerson
Cc: Sorsha Anderson; Mazza-Paquette, Melissa; Murphy, Ariel; Harrington, Michael
Subject: RE: DOL - Others Needs Assistance Grant - FEMA

Jason is correct, the 25% match for the FEMA award for LWAP is coming from existing UI benefits managed through the VDOL Trust Fund.

-Chad

Chad Wawrzyniak
Chief Financial Officer

Vermont Department of Labor
5 Green Mountain Drive
P.O. Box 488
Montpelier, VT 05601-0488
(p) 802.828.0281 (f) 802.828.4022
Chad.Wawrzyniak@vermont.gov
www.labor.vermont.gov

From: Aronowitz, Jason <Jason.Aronowitz@vermont.gov>
Sent: Tuesday, August 25, 2020 10:16 AM
To: Dickerson, D <ddickerson@leg.state.vt.us>; Wawrzyniak, Chad <Chad.Wawrzyniak@vermont.gov>
Cc: Sorsha Anderson <SAnderson@leg.state.vt.us>; Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>;
Murphy, Ariel <Ariel.Murphy@vermont.gov>
Subject: RE: DOL - Others Needs Assistance Grant - FEMA

Hi Dan,

As you know, FEMA has a 25% match requirement. However, for this grant, the use of UI expenditures as match is allowed, and the award letter was on the basis of VT having to provide no further match.

From the award letter:

As a condition of the award, the State of Vermont is required to meet the cost sharing requirements described in the State of Vermont Administrative Plan. If the State of Vermont wants to use another federal agency's funding to cover the non-federal cost share of a FEMA grant, you should confirm with that other federal agency that doing so is an allowable use of those funds. This can be through express permission in the terms of the other federal award or written confirmation from the agency itself. FEMA is not responsible for any impermissible outlays a recipient may make under another agency's program. It is the responsibility of the recipient to ensure the other Federal agency permits its funds being used as a non-federal cost share. The State of Vermont may also credit Unemployment Insurance weekly benefit payments made from state funds during the period of assistance towards the non-federal cost share.

Comm. Harrington testified in JFC yesterday, "We now have confirmation that the feds will allow match to be calculated on existing benefits. We submitted our application as such, and the feds have approved it."

Chad – can you please confirm the above? Thanks – Jason

Jason Aronowitz
Budget Analyst
Finance and Management
109 State Street 5th Floor
Montpelier, VT 05609
(802) 622-4102
(802) 496-3555 during COVID emergency

From: Daniel Dickerson <ddickerson@leg.state.vt.us>
Sent: Tuesday, August 25, 2020 10:07 AM
To: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>; Murphy, Ariel <Ariel.Murphy@vermont.gov>
Cc: Sorsha Anderson <Sanderson@leg.state.vt.us>; Aronowitz, Jason <Jason.Aronowitz@vermont.gov>
Subject: RE: DOL - Others Needs Assistance Grant - FEMA

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Melissa – Thank you for all of the grant wrangling work that you have done.

Ariel – Welcome aboard. I am hoping to find out what the State’s matching requirement is for these funds and what source of money it plans to use for any matching requirement. I have included Jason Aronowitz who might know the answer, but perhaps someone at the Labor Dept. is better suited to answer the question.

Thank you,

Daniel Dickerson

From: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>
Sent: Tuesday, August 25, 2020 9:49 AM
To: Daniel Dickerson <ddickerson@leg.state.vt.us>
Cc: Sorsha Anderson <Sanderson@leg.state.vt.us>; Murphy, Ariel <Ariel.Murphy@vermont.gov>
Subject: DOL - Others Needs Assistance Grant - FEMA

Good morning Dan,

Attached, please find a grant request approved by the Governor this morning.

I'd also like to introduce you to Ariel, copied here, who began last week in the role of Private Secretary for the Department of Finance and Management. Moving forward she will be your contact for grants, etc.

It's been a pleasure working with you again. I appreciate all your assistance.

Thank you,
Melissa



Melissa Mazza-Paquette | Office of the Secretary of Administration
109 State Street, 5th Floor | Montpelier, VT 05609-0201

melissa.mazza-paquette@vermont.gov

ph: (802) 828-3322



FEMA

August 22, 2020

Mr. Michael Harrington
Commissioner
Vermont Department of Labor
P.O. Box 0488
Montpelier, VT 05601-0488

Reference: Application Approval and Initial Obligation
Disaster No.: FEMA-DR-4532-VT
Period of Assistance: August 1, 2020 to December 27, 2020 *or* termination of program,
whichever is sooner
Period of Performance: August 1, 2020 to March 27, 2021 *or* 90 days after termination of program,
whichever is sooner
Initial Obligation: \$35,845,657.00
Award No.: 4532DRVTSPLW
Assistance Listing: 97.050
Federal Award Date: 8/22/20

Dear Commissioner Harrington:

The Federal Emergency Management Agency (FEMA) has reviewed the application from the State of Vermont for Other Needs Assistance (ONA) supplemental payments for lost wages funds to enable the state to provide \$300 weekly supplemental payments to individuals unemployed due to the 2019 novel coronavirus pandemic (COVID-19) pursuant to FEMA-DR-4532-VT.

On behalf of FEMA, and as demonstrated by the FEMA-State Agreement with the State of Vermont, I am approving an award for supplemental payments for lost wages for the initial obligation stated above based on an estimated three-week requirement for supplemental payments and an additional 0.29% of the initial obligation for administrative costs. Funds provided for administrative costs must be maintained in a separate account from those funds used for supplemental payments for lost wages paid directly to eligible individuals. Additional funds may be obligated in one-week increments, as eligible needs continue to be identified through the end of the Period of Assistance, when funding remains available and the program is not otherwise terminated. The Period of Assistance for supplemental payments for lost wages closes on:

- December 27, 2020, or
- On the effective date of enactment of legislation providing, due to the COVID-19 outbreak, supplemental Federal unemployment compensation, or similar compensation, for unemployed or underemployed individuals, or
- When the balance of the Disaster Relief Fund (DRF) reaches \$25 billion, or
- When FEMA expends \$44 billion on this program from the DRF, whichever is first.

FEMA continually monitors the DRF balance; should the DRF reach a level where funds will soon be depleted, FEMA will notify grants recipients that the program may soon terminate.

As a condition of the award, the State of Vermont is required to meet the cost sharing requirements described in the State of Vermont Administrative Plan. If the State of Vermont wants to use another federal agency's funding to cover the non-federal cost share of a FEMA grant, you should confirm with that other federal agency that doing so is an allowable use of those funds. This can be through express permission in the terms of the other federal award or written confirmation from the agency itself. FEMA is not responsible for any impermissible outlays a recipient may make under another agency's program. It is the responsibility of the recipient to ensure the other Federal agency permits its funds being used as a non-federal cost share. The State of Vermont may also credit Unemployment Insurance weekly benefit payments made from state funds during the period of assistance towards the non-federal cost share.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award. By accepting this award, the State of Vermont acknowledges that the terms of the following documents are incorporated into the Federal award and that the Federal award is contingent upon the State of Vermont administering supplemental payments for lost wages in accordance with the terms of these documents:

- The State of Vermont Administrative Plan
- Summary Award Memo (attached to this Award Letter)
- FEMA State of Vermont Agreement
- FEMA Form 010-0-11: Individuals and Households Program – Other Needs Assistance Administrative Option Selection

If any language in this letter and one of the documents in the list above are in conflict, the language of this letter will apply. This award letter also provides approval for the State of Vermont Administrative Plan and FEMA Form 010-0-11 submitted on August 21, 2020 for FEMA-DR-4532-VT only.

In order to establish acceptance of this award, the award must be signed and returned electronically to FEMA. Please submit the signed award to fema-iadivisiondirector@fema.dhs.gov.

If you or your staff have questions regarding this letter, please contact Christopher B. Smith, Individual Assistance Division Director, at Christopher.B.Smith@fema.dhs.gov.

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,



David Bibo
Acting Associate Administrator, Office of Response and Recovery

cc: Keith Turi, Assistant Administrator, Recovery Directorate
Christopher B. Smith, Director, Individual Assistance Division
Christopher P. Logan, Acting Assistant Administrator, Grant Programs Directorate
Russell Webster, Regional Administrator, Region I

Award Acceptance

I, Michael Harrington, am hereby providing my signature for the above award offer review.

RECIPIENT SIGNATORY OFFICIAL

DATE

Summary Award Memo

Assistance Listing Number: 97.050 – Other Needs Assistance-Supplemental Payments for Lost Wages

Recipient: Vermont Department of Labor

DUNS number: 8093767590000

Award number: 4532DRVTSPLW

Summary description of award / Approved scope of work

Payment for supplemental lost wages is authorized under the “Other Expenses” category of Other Needs Assistance (ONA), in accordance with section 408(e)(2) of the Stafford Act (42 U.S.C. § 5174(e)(2)) and 44 C.F.R. §206.119(c)(6)(ii), to eligible individuals of the State of Vermont, including the members of any Federally Recognized tribe residing therein, and pursuant to the Governor’s request and agreement to administer delivery of the program, for Major Disaster FEMA-DR-4532-VT, declared April 8, 2020 by the President pursuant to section 401 of the Stafford Act (42 U.S.C. § 5170) for COVID-19, under the following conditions:

- 1) The Governor agrees to the cost sharing requirement of 42 U.S.C. § 5174(g)(2), with the understanding that the State of Vermont must provide documentation demonstrating that their 25 percent cost share was provided from non-Federal funds or from Federal funds authorized to be applied towards the cost sharing requirement.
- 2) The Governor agrees to administer delivery of financial payments for supplemental lost wages in conjunction with the state unemployment insurance system or agency.
- 3) Assistance from FEMA for providing supplemental payments for lost wages to eligible individuals under this program is limited to:
 - a. a \$300 payment per week to individuals eligible for assistance; and
 - b. may not extend beyond:
 - i. the week ending December 27, 2020; or
 - ii. the effective date enactment of legislation providing, due to the COVID-19 outbreak, supplemental Federal unemployment compensation, or similar compensation, for unemployed or underemployed individuals.
 - c. Additional funds will not be made available when the balance of the Disaster Relief Fund reaches \$25 billion, or

- d. When FEMA has expended \$44 billion on this program from the DRF, whichever is first.
- 4) “Eligible individuals” means:
- a. Recipients of at least \$100 per week for of any of the following benefits, beginning back to August 1, 2020:
 - i. Unemployment compensation, including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Service members (UCX);
 - ii. Pandemic Emergency Unemployment Compensation (PEUC);
 - iii. Pandemic Unemployment Assistance (PUA);
 - iv. Extended Benefits (EB);
 - v. Short-Time Compensation (STC);
 - vi. Trade Readjustment Allowance (TRA); and
 - vii. Payments under the Self-Employment Assistance (SEA) program; and
 - b. persons who provide self-certification that the eligible individual is unemployed, partially unemployed, or unable or unavailable to work due to disruptions caused by COVID-19.
- 5) The State of Vermont’s delivery of supplemental assistance for lost wages is contingent upon an approval of a State of Vermont Administrative Plan, which describes the partnership between FEMA and the State of Vermont for the delivery of assistance under section 408(e)(2) of the Stafford Act, 42 U.S.C. § 5174.
- 6) The State of Vermont may deliver supplemental assistance to eligible individuals retroactively to August 1, 2020.
- 7) The State of Vermont shall make separate draws for each aggregate weekly lost wages benefit, or otherwise in accordance with its regularly scheduled benefit disbursement process.
- 8) Funds for this Award will not be used for Research and Development (R&D) purposes.

Amount obligated

	Total
Lost Wages Payments for the week ending 8/1/20	\$13,290,900
Lost Wages Payments for the week ending 8/8/20	\$12,128,400
Lost Wages Payments for the week ending 8/15/20	\$10,323,600
Administrative Costs	\$102,757
Total	\$35,845,657

As the state continues to identify eligible weekly needs through the end of the Period of Assistance, additional obligations may be made in one-week increments if funds remain available in the DRF, subject to the terms of program termination as outlined in the August 8, 2020 Presidential Memorandum. FEMA will amend the Summary Award Memo and notify the state of additional obligations.

Period of Assistance and Period of Performance

The Period of Assistance is the period of time for which the State may make supplemental payments for lost wages as outlined in the August 8, 2020 Presidential memorandum.

The Period of Performance (POP) is the time during which the award recipient may incur additional obligations to carry out the work authorized under this award, including administrative costs. The POP end date establishes the point at which you may no longer incur costs to the award, must complete all work under the award, must start final reconciliation of costs, and must start preparation of final reports to be submitted as required to close the federal award. In addition, you, as the recipient, must liquidate all obligations and submit all final closeout reports no later than ninety (90) calendar days after the end date of the period of performance as stated in 2 CFR 200.343. The POP may be extended upon request by the state, and approval from FEMA.

Administrative Requirements

FEMA financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

All costs charged to this award must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200, unless otherwise indicated in the terms and conditions of the award. For more information on FEMA's implementation of 2 C.F.R. Part 200, see [Information Bulletin \(IB\) No. 400](#).

In general, the Cost Principles establish standards for the allowability of costs, provide detailed guidance on the cost accounting treatment of costs as direct or administrative costs, and set forth allowability principles for selected items of cost. More specifically, costs charged to this award must be consistent with the Cost Principles for Federal Awards located at 2 C.F.R. Part 200, Subpart E. In order to be allowable, all costs charged to a FEMA award must be reasonable in nature and amount and allocable to the particular FEMA award.

Additionally, all costs charged to awards must comply with the award's applicable statutes, policies, and terms and conditions of the award. If FEMA staff identify costs that are inconsistent with any of these requirements, these costs may be disallowed, and FEMA may recover funds as appropriate, consistent with applicable laws, regulations, and policies.

As part of those requirements, grant recipients may only use federal funds set forth in the terms and conditions of the award and must be consistent with the statutory authority for the award. Award funds may not be used for matching funds for other federal grants/cooperative agreements, lobbying, or intervention in federal regulatory or

adjudicatory proceedings. In addition, federal funds may not be used to sue the Federal Government or any other government entity. Recipients are also expected to conform, as applicable, with accepted engineering practices, established codes, standards, modeling techniques, and best practices, and participate in the development of case studies demonstrating the effective use of grant funds, as requested.

National Policy Requirements; DHS Standard Terms and Conditions

All recipients for Department of Homeland Security (DHS) / FEMA grant and cooperative agreements are required to comply with DHS Standard Terms and Conditions, which are available online at: <http://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>. The applicable DHS Standard Terms and Conditions will be those in effect at the time the award was made.

Reporting

Recipients are required to submit various financial and programmatic reports in accordance with The State of Vermont Administrative Plan as a condition of award acceptance. Future awards and funds drawdown may be withheld if these reports are delinquent.

Federal Financial Reporting Requirements

Recipients must report obligations and expenditures on a quarterly basis through the FFR form (SF-425) to DHS/FEMA. Recipients may review the Federal Financial Reporting Form (FFR) (SF-425) at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortby=1>.

Financial Reporting Periods and Due Dates

An FFR must be submitted quarterly throughout the period of performance (POP), including partial calendar quarters, as well as in periods where no grant award activity occurs. Future awards and fund drawdowns may be withheld if these reports are delinquent, demonstrate a lack of progress, or are insufficient in detail.

Programmatic Performance Reporting Requirements

Weekly program status reports are required in addition to final reports as required by 2 C.F.R. Part 200.328. Program status reports must include:

- The number and dollar amount of applications approved weekly,
- The number of individuals eligible to receive assistance under this award, broken out by the programs identified in Section 4(d)(i) of the August 8, 2020 Presidential memorandum;
- The amount of assistance disbursed weekly, and
- The number of appeals received.

The recipient must also comply with all reporting requirements in the State of Vermont Administrative Plan.

Closeout Reporting Requirements

Within 90 days after the end of the period of performance, or after an amendment has been issued to close out a grant, recipients must submit the following:

- 1) The final request for payment, if applicable;
 - 2) The final FFR (SF-425);
 - 3) The final progress report detailing all accomplishments;
 - 4) A qualitative narrative summary of the impact of those accomplishments throughout the period of performance; and
- Other documents required by the terms and conditions of the award.

After the award closeout reports have been reviewed and approved by DHS/FEMA, a closeout notice will be completed. The notice will indicate the POP as closed, list any remaining funds that will be de-obligated, and address the requirement of maintaining the award records for at least three years from the date of the final FFR. The record retention period may be longer than three years due to an audit, litigation, or other circumstances outlined in 2 C.F.R. § 200.333.

Recipients are responsible for refunding to FEMA any unobligated balances that FEMA paid that are not authorized to be retained per 2 C.F.R. § 200.343(d).

Disclosing Information per 2 C.F.R. § 180.335

This reporting requirement pertains to disclosing information related to government-wide suspension and debarment requirements. Before a recipient enters into a grant award with FEMA, the recipient must notify FEMA if it knows if it or any of the recipient's principals under the award fall under one or more of the four criteria listed at 2 C.F.R. § 180.335:

- 1) Are presently excluded or disqualified;
- 2) Have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § 180.800(a) or had a civil judgment rendered against it or any of the recipient's principals for one of those offenses within that time period;
- 3) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in 2 C.F.R. § 180.800(a); or
- 4) Have had one or more public transactions (federal, state, or local) terminated within the preceding three years for cause or default.

At any time after accepting the award, if the recipient learns that it or any of its principals falls under one or more of the criteria listed at 2 C.F.R. § 180.335, the recipient must provide immediate written notice to FEMA in accordance with 2 C.F.R. § 180.350.

Reporting of Matters Related to Recipient Integrity and Performance

Per 2 C.F.R. Part 200, Appendix I § F.3, the additional post-award reporting requirements in 2 C.F.R. Part 200, Appendix XII may apply to applicants who, if upon becoming recipients, have a

total value of currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies that exceeds \$10,000,000 for any period of time during the period of performance of an award under this funding opportunity. Recipients that meet these criteria must maintain current information reported in FAPIIS about civil, criminal, or administrative proceedings described in paragraph 2 of Appendix XII at the reporting frequency described in paragraph 4 of Appendix XII.

Federal Award Performance Goals

Recipient submits financial and programmatic reports on time.

Recipient submits all closeout reports within 90 days of the end of the program.

Recipient paid only eligible individuals or recovered all funds provided in error.

Monitoring

Per 2 C.F.R. § 200.336, FEMA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems to review project accomplishments and to provide any required technical assistance. During site visits, FEMA will review grant recipients' files related to the grant award. As part of any monitoring and program evaluation activities, grant recipients must permit FEMA, upon reasonable notice, to review grant-related records and to interview the organization's staff and contractors regarding the program. Recipients must respond in a timely and accurate manner to FEMA requests for information relating to the grant program.

Effective monitoring and oversight help FEMA ensure that recipients use grant funds for their intended purpose(s), verify that projects undertaken are consistent with approved plans, and ensure that recipients make adequate progress towards stated goals and objectives.

Additionally, monitoring serves as the primary mechanism to ensure that recipients comply with applicable laws, rules, regulations, program guidance, and requirements. FEMA regularly monitors all grant programs both financially and programmatically in accordance with federal laws, regulations (including 2 C.F.R. Part 200), program guidance, and the terms and conditions of the award. All monitoring efforts ultimately serve to evaluate progress towards grant goals and proactively target and address issues that may threaten grant success during the period of performance.

FEMA staff will monitor recipients periodically to ensure that administrative processes, policies and procedures, budgets, and other related award criteria are meeting Federal government-wide and FEMA regulations. Aside from reviewing quarterly financial and programmatic reports, FEMA may also conduct enhanced monitoring through desk-based reviews, onsite monitoring visits, or both. Enhanced monitoring will involve the review and analysis of financial compliance and administrative processes, policies, activities, and other attributes of each federal assistance award, and it will identify areas where the recipient may need technical assistance, corrective actions, or other support.

Financial and programmatic monitoring are complementary processes within FEMA's overarching monitoring strategy that function together to ensure effective grants management, accountability, and transparency; validate progress against grant and program goals; and safeguard federal funds against fraud, waste, and abuse. Financial monitoring primarily focuses on statutory and regulatory compliance with administrative grant requirements, while programmatic monitoring seeks to validate and assist in grant progress, targeting issues that may be hindering project goals and ensuring compliance with the purpose of the grant and grant program. Both monitoring processes are similar in that they feature initial reviews of all open awards, and in-depth monitoring of grants requiring additional attention.

As a notice to the recipient, FEMA will be fulfilling its responsibilities of the Improper Payments Elimination and Recovery Act (IPERA) and related statutes. FEMA will be conducting monitoring designed to eliminate and recover improper payments made by FEMA to recipients.

Record Retention

Financial records, supporting documents, statistical records and all other non-federal entity records pertinent to a federal award generally must be maintained for at least three years from the date the final FFR is submitted. *See* 2 C.F.R. § 200.333. Further, if the recipient does not submit a final FFR and the award is administratively closed, FEMA uses the date of administrative closeout as the start of the general record retention period.

The record retention period **may be longer than three years or have a different start date** in certain cases. These include:

- Records for real property and equipment acquired with federal funds must be retained for **three years after final disposition of the property**. *See* 2 C.F.R. § 200.333(c).
- If any litigation, claim, or audit is started before the expiration of the three-year period, the records **must be retained until** all litigation, claims, or audit findings involving the records **have been resolved and final action taken**. *See* 2 C.F.R. § 200.333(a).
- The **record retention period will be extended if the recipient is notified in writing** of the extension by FEMA, the cognizant or oversight agency for audit, or the cognizant agency for indirect costs. *See* 2 C.F.R. § 200.333(b).
- Where FEMA requires recipients to report program income after the period of performance ends, the **program income record retention period begins at the end of the recipient's fiscal year in which program income is earned**. *See* 2 C.F.R. § 200.333(e).
- For indirect cost rate proposals, cost allocation plans, or other rate computations records, the start of the record retention period depends on whether the indirect cost rate documents were submitted for negotiation. If the **indirect cost rate**

documents were submitted for negotiation, the record retention period begins from the date those documents were submitted for negotiation. If indirect cost rate documents were not submitted for negotiation, the record retention period begins at the end of the recipient's fiscal year or other accounting period covered by that indirect cost rate. See 2 C.F.R. § 200.333(f).

Types of Records to Retain

FEMA requires that non-federal entities maintain the following documentation for federally funded purchases:

- Specifications
- Solicitations
- Competitive quotes or proposals
- Basis for selection decisions
- Purchase orders
- Contracts
- Invoices
- Canceled checks

Non-federal entities should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of any relevant documentation and records, including purchasing documentation along with copies of canceled checks for verification. *See, e.g., 2 C.F.R. §§ 200.318(i), 200.333, 200.336.* The state is directed that it shall not submit Personally Identifiable Information (PII) to FEMA unless requested to do so.

In order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g). Non-federal entities who fail to fully document all purchases may find their expenditures questioned and subsequently disallowed.

Actions to Address Noncompliance

Non-federal entities receiving financial assistance from FEMA are required to comply with requirements in the terms and conditions of their awards or subawards, including the applicable federal statutes, regulations, and terms set forth in this award. Throughout the award lifecycle or even after an award has been closed, FEMA or the pass-through entity may discover potential or actual noncompliance on the part of a recipient or subrecipient. This potential or actual noncompliance may be discovered through routine monitoring, audits, closeout, or reporting from various sources.

In the case of any potential or actual noncompliance, FEMA may place special conditions on an award per 2 C.F.R. §§ 200.207 and 200.338, FEMA may place a hold on funds until the matter is corrected, or additional information is provided per 2 C.F.R. § 200.338, or it may do

both. In the event the noncompliance is not able to be corrected by imposing additional conditions or if the recipient or subrecipient refuses to correct the matter, FEMA may use other remedies allowed under 2 C.F.R. § 200.338. These remedies include actions to disallow costs, recover funds, wholly or partly suspend or terminate the award, initiate suspension and debarment proceedings, withhold further federal awards, or take other actions that may be legally available.

FEMA may discover and take action on noncompliance even after an award has been closed. The closeout of an award does not affect FEMA's right to disallow costs and recover funds as long as the action to disallow costs takes place during the record retention period. See 2 C.F.R. §§ 200.333, 200.344(a). Closeout also does not affect the obligation of the non-federal entity to return any funds due as a result of later refunds, corrections, or other transactions. 2 C.F.R. § 200.344(a)(2). The types of funds FEMA might attempt to recover include, but are not limited to, improper payments, cost share reimbursements, program income, interest earned on advance payments, or equipment disposition amounts.

FEMA may seek to recover disallowed costs through a Notice of Potential Debt Letter, Remedy Notification, or other letter. The document will describe the potential amount owed, the reason why FEMA is recovering the funds, the recipient's appeal rights, how the amount can be paid, and the consequences for not appealing or paying the amount by the deadline. If the recipient neither appeals nor pays the amount by the deadline, the amount owed will become final. Potential consequences if the debt is not paid in full or otherwise resolved by the deadline include the assessment of interest, administrative fees, and penalty charges; administratively offsetting the debt against other payable federal funds; and transferring the debt to the U.S. Department of the Treasury for collection.

- FEMA notes the following common areas of noncompliance for its grant programs and associated awards: Insufficient documentation and lack of record retention.
- Failure to follow the procurement under grants requirements.
- Failure to submit closeout documents in a timely manner. Failure to follow EHP requirements. Failure to comply with the POP deadline.

Audits

FEMA grant recipients are subject to audit oversight from multiple entities including the DHS OIG, the GAO, or independent auditing firms for single audits, and may cover activities and costs incurred under the award. Auditing agencies such as the DHS OIG, the GAO, and FEMA in its oversight capacity, must have access to records pertaining to the FEMA award. Recipients must retain award documents for at least three years from the date the final FFR is submitted, and longer in some cases, subject to the requirements of 2 C.F.R. § 200.333. In the case of administrative closeout, documents must be retained for at least three years from the date of closeout, or longer, subject to 2 C.F.R. § 200.333. If documents are retained longer than the required retention period, the DHS OIG, GAO, and pass-through entity, as well as FEMA in its oversight capacity, have the right to access these records as well. *See* 2 C.F.R. §§ 200.333, 200.336.

Additionally, non-federal entities must comply with the single audit requirements at 2 C.F.R. Part 200, Subpart F. Specifically, non-federal entities that expend \$750,000 or more in federal awards during their fiscal year must have a single or program-specific audit conducted for that year in accordance with Subpart F. 2 C.F.R. § 200.501. A single audit covers all federal funds expended during a fiscal year, not just FEMA funds. The cost of audit services may be allowable per 2 C.F.R. § 200.425, but non-federal entities must select auditors in accordance with 2 C.F.R. § 200.509, including following the proper procurement procedures.

The objectives of single audits are to:

- Determine if financial statements conform to generally accepted accounting principles (GAAP);
- Determine whether the schedule of expenditures of federal awards is presented fairly;
- Understand, assess, and test the adequacy of internal controls for compliance with major programs; and
- Determine if the entity complied with applicable laws, regulations, and contracts or grants.

For single audits, the auditee is required to prepare financial statements reflecting its financial position, a schedule of federal award expenditures, and a summary of the status of prior audit findings and questioned costs. The auditee also is required to follow up and take appropriate corrective actions on new and previously issued but not yet addressed audit findings. The auditee must prepare a corrective action plan to address the new audit findings. 2 C.F.R. §§ 200.508, 200.510, 200.511.

Non-federal entities must have an audit conducted, either single or program-specific, of their financial statements and federal expenditures annually or biennially pursuant to 2 C.F.R. § 200.504. Non-federal entities must also follow the information submission requirements of 2 C.F.R. § 200.512, including submitting the audit information to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The audit information to be submitted include the data collection form described at 2 C.F.R. § 200.512(c) and Appendix X to 2 C.F.R. Part 200 as well as the reporting package described at 2 C.F.R. § 200.512(b).

The non-federal entity must retain one copy of the data collection form and one copy of the reporting package for three years from the date of submission to the Federal Audit Clearinghouse. 2 C.F.R. § 200.512; *see also* 2 C.F.R. § 200.517 (setting requirements for retention of documents by the auditor and access to audit records in the auditor's possession).

FEMA, the DHS OIG, the GAO, and the pass-through entity, if applicable, as part of monitoring or as part of an audit, may review a non-federal entity's compliance with the single audit requirements. In cases of continued inability or unwillingness to have an audit conducted in compliance with 2 C.F.R. Part 200, Subpart F, FEMA and the pass-through

entity, if applicable, are required to take appropriate remedial action under 2 C.F.R. § 200.338 for noncompliance, pursuant to 2 C.F.R. § 200.505.

Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

Please contact FEMA at the contact information below if you have any questions.

Awarding Agency Project Officer Contact Information:

Christopher B. Smith, Director

Individual Assistance Division

Federal Emergency Management Agency

500 C ST SW

Washington, DC 20024

Christopher.B.Smith@fema.dhs.gov