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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 21, 2020

Mayor Michael P. Victorino
County of Maui
Wailuku, Hawaii 96793

SUBJECT: FISCAL YEAR ("FY") 2021 BUDGET (OM-5) (EDB-1)

Dear Mayor Victorino:

Through the Coronavirus Aid, Relief, and Economic Security ("CARES") Act and other legislation, the Federal government is making financial resources available both directly and indirectly to counties. The Economic Development and Budget Committee understands many of these resources may not be recognized before the Fiscal Year 2021 Budget session concludes. But the Committee anticipates the Administration will immediately apply for and obtain Federal funding, and submit corresponding proposed Budget amendments starting early in the new Fiscal Year.

The Committee invites you and other Administration leaders to make a presentation at your earliest opportunity on Federal opportunities to support the County in its response to the COVID-19 pandemic. Below, I would like to call the Administration's attention to a few specific resources under the CARES Act. I have consulted with experts in municipal finance and disaster relief, including the following:

- Mary Beth Coburn, Esq., Partner, Best Best & Krieger LLP
- Catherine Ures, Vice President, Nan McKay & Associates
- Rob Reid, Director, Guidehouse

I would respectfully encourage the Administration to consider retaining these experts to ensure the County obtains the best advice at this critical time. Perhaps the fees for consulting services are reimbursable as part of the County's COVID-19 response.

Community Development Block Grant – COVID-19 (CDBG-CV)

The CARES Act authorized \$5 billion in CDBG money for COVID-19 response, known as CDBG-CV grants. In the attached correspondence dated April 6, 2020, John Gibbs, Acting Assistant Secretary of Housing and Urban Development, shared information on obtaining CDBG-CV grants, including a chart entitled “CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response.”

The Committee has been advised the CDBG application deadline has been extended by a full year, to April 2021, allowing municipalities the opportunity to take advantage of the CARES Act. Though Resolution 20-65 authorized the County’s CDBG application, I would respectfully suggest the Administration reconsider the application in light of COVID-19-related needs and the availability of additional funding. I am sure the Council would welcome submission of a new resolution to rescind or amend Resolution 20-65.

Community Development Block Grant – Disaster Recovery (CDBG-DR)

HUD has announced flexibility for municipalities that may allow the CDBG-DR program to be used for COVID-19 response. For instance, in a fact sheet published March 31, 2020, HUD answered “Generally, yes,” to the following question: “Can CDBG-DR grantee use program income generated by its CDBG-DR activities for the COVID-19 pandemic?”

For more information, the Office of Community Planning Development has published a website entitled “HUD’s COVID-19 Resources and Fact Sheets”:

https://www.hud.gov/program_offices/comm_planning

Coronavirus Relief Fund and Municipal Liquidity Facility

I highlighted these resources in my correspondence dated April 17, 2020. Please note that, because of the applicable population thresholds, Maui County needs State legislation to obtain financial assistance under the Coronavirus Relief Fund and Municipal Liquidity Facility. May I suggest the Administration consider consulting with the Governor, the Speaker of the House, and Senate President.

FEMA Disaster Relief Fund

The CARES Act includes \$45 billion for the Federal Emergency Management Agency Disaster Relief Fund.

FEMA's Public Assistance Program provides money directly to counties and other entities so that communities can quickly respond to and recover from disasters. The coronavirus-related funding from FEMA is coming through the Public Assistance Program. The Federal share of FEMA funding is not less than 75 percent for grantees, although FEMA may recommend an increase up to 90 percent in certain cases.

FEMA has simplified, and made largely virtual, its application process:

<http://grantee.fema.gov/>

It is crucial to document and track incremental costs during the pandemic, especially as it relates to the differences in costs between when the pandemic started and after. Eligible costs for reimbursement specific to COVID-19 include:

- Emergency operation center costs.
- Training specific to the pandemic.
- Disinfection of eligible facilities.
- Equipment costs associated with enabling increased work-from-home efforts.
- Direct costs of testing and treating potential and actual COVID-19 patients.

The FEMA grants require coordination with the State.

On April 19, 2020, in coordination with the Department of Housing Human Services, FEMA published a "best practices" guide for COVID-19 responses:

<https://www.fema.gov/news-release/2020/04/19/fema-and-hhs-share-best-practices-coronavirus-pandemic-response>

For additional background, please find attached copies of slides presented in a webinar, dated April 7, 2020, entitled "Leveraging FEMA & Other Federal Grant Funding Opportunities for COVID-19."

Finally, may I suggest the Administration regularly check with the National Association of Counties, which is keeping tabs on the development of Federal resources online:

<https://www.naco.org/resources/featured/coronavirus-disease-2019#link-2>

Thank you for your consideration. Should you have any questions, please contact me or the Committee staff (Shelly Espeleta at ext. 7134, Lesley Milner at ext. 7886, Richard E. Mitchell at ext. 7662, or Yvette Bouthillier at ext. 7758).

Sincerely,



KEANI N.W. RAWLINS-FERNANDEZ, Chair
Economic Development and Budget
Committee

edb:2021bgt:200420aom1:dmr

Attachments

cc: Managing Director
Director of Finance
Community Development Block Grant Program Manager
Emergency Management Agency Administrator
Budget Director




U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

9 April 2020

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Fiscal Year 2020 and 2019 CDBG and CDBG-CV Grantees and
All CPD Field Office Directors

FROM:  John Gibbs, Acting Assistant Secretary for Community Planning and
Development

SUBJECT: CARES Act Flexibilities for CDBG Funds Used to Support
Coronavirus Response and plan amendment waiver

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136) makes available \$5 billion in supplemental Community Development Block Grant (CDBG) funding for grants to prevent, prepare for, and respond to coronavirus (CDBG-CV grants). Additionally, the CARES Act provides CDBG grantees with flexibilities that make it easier to use CDBG-CV grants and fiscal years 2019 and 2020 CDBG Grants for coronavirus response and authorizes HUD to grant waivers and alternative requirements.

The Department has announced the allocations of the first \$2 billion in CARES Act funding for CDBG grantees, as well as \$1 billion for Emergency Solutions Grants (ESG) and \$53.7 million for Housing Opportunities for Persons With AIDS (HOPWA). You can find the allocations at www.hud.gov/program_offices/comm_planning/budget/fy20/.

This memorandum transmits the attached *CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response* Guide (Guide). The Guide describes the immediate availability of a 5-day public comment period for amendments and new plan submissions, uncaps the percentage of CDBG funding for public services to prevent, prepare for, and respond to coronavirus, as well as other flexibilities. Please note that these new provisions are not only applicable to the \$5 billion in CDBG funding from the CARES Act but many of the new provisions are also applicable to FY2019 and FY2020 CDBG funding. This broad applicability provides grantees with flexibility to help address the challenges facing our nation.

Grantees are advised to amend or prepare their plans as soon as possible and not to wait for the pending Federal Register notice, which may provide additional waivers and alternative requirements. Similarly, grantees should not wait for HUD to allocate the remaining nearly \$3 billion of the \$5 billion provided by the CARES Act for the CDBG program. Upon publication of the Federal Register notice and subsequent allocations, grantees receiving allocations will then amend plans accordingly.

Grantees should proceed with all amendments and plans under these new provisions by adding the CDBG-CV allocation in their plans as an available resource for the year. The CARES Act permits HUD to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the CDBG-CV funds, FY2019 and FY2020 CDBG funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or

alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus.

To expedite grantees' use of CDBG-CV funds, HUD is waiving the requirements at 42 U.S.C. 12705(a)(2) to the extent it requires updates to the housing and homeless needs assessment, housing market analysis, and strategic plan and 24 CFR 91.220 and 91.320 to the extent the action plan is limited to a specific program year to permit grantees to prepare substantial amendments to their most recent annual action plan, including their 2019 annual action plan. Grantees must identify the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

The Department is also waiving 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b).

The Guide addresses many of the Field's initial questions. Email inquiries to CPDQuestionsAnswered@hud.gov will continue to receive individual replies and guidance. HUD will also be batching questions and responses and periodically making them available as FAQs. Additional resources will continue to be posted to www.hudexchange.info/programs/cdbg/disease/.

Thank you for the work you and your staff do with our communities in the fight against the coronavirus.

CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response

April 9, 2020

President Trump has signed *The Coronavirus Aid, Relief and Economic Security Act* (CARES Act). The CARES Act:

- Makes available \$5 billion in supplemental Community Development Block Grant (CDBG) funding for grants to prevent, prepare for, and respond to coronavirus (CDBG-CV grants);
- Provides flexibilities for CDBG grantees to make it easier to use CDBG-CV grants and fiscal years 2019 and 2020 CDBG grants for coronavirus response and authorizes HUD to grant waivers and alternative requirements;
- Requires CDBG-CV grantees to prevent the duplication of benefits, which means grant funds may not be used to pay costs if another source of financial assistance is available to pay that cost.

HUD will publish a Federal Register notice describing the requirements for CDBG-CV grants. The notice will also include waivers and alternative requirements for CDBG-CV and fiscal year 2019 and 2020 CDBG grants. A grantee may submit a CDBG-CV action plan substantial amendment to its most recent accepted CDBG action plan for the first CDBG-CV allocation before the notice is published. To apply for CDBG-CV grants, grantees may follow existing regulatory requirements for a substantial amendment to the grantee's action plan that describes the amount of CDBG-CV funds available in the first allocation and planned use of funds, in accordance with existing requirements and the flexibilities in the CARES Act, summarized below. HUD will publish a Q&A document with further information on this process.

Grantees may use CDBG-CV and CDBG funds for a range of activities to prevent, prepare for, and respond to coronavirus. For examples, see the [Quick Guide to CDBG Activities for Infectious Disease Response](#).

Summary of CARES Act Provisions for Coronavirus Response With CDBG-CV and CDBG Grants

For more information, refer to applicable sections of the CARES Act, Housing and Community Development Act of 1974 (for State CDBG Grantees) and CDBG regulations (for Entitlement CDBG grantees).				
Description of Program Flexibility	Applicability to CDBG-CV and CDBG Grants			
Public Service Activities				
Eliminates the 15 percent cap ¹ on the amount of grant funds that can be used for public services activities. Following enactment, the cap in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect on CDBG-CV grants and no effect on FY 2019 and 2020 CDBG grant funds used for coronavirus efforts.	CDBG-CV	Immediately Available	✓	
	CDBG FY 19 and FY 20 Grants	Immediately Available	✓	
	CDBG Grants before FY 19		Not Available	✗
Reimbursement of Costs				
Provides that grantees may use CDBG-CV grant funds to cover or reimburse costs to prevent, prepare for, and respond to coronavirus incurred by a State or locality, regardless of the date on which such costs were incurred, when those costs comply with CDBG requirements. For other grants, pre-agreement and pre-award cost authority is available under 24 CFR 570.489(b) (states) and 570.200(h) (entitlements).	CDBG-CV	Immediately Available	✓	
	CDBG FY 19 and FY 20 Grants		See current regulations.	✗
	CDBG Grants before FY 19		See current regulations.	✗

¹ Section 105(a)(8) of the Housing and Community Development Act of 1974, provides a different percentage cap for some grantees.

Description of Program Flexibility	Applicability to CDBG-CV and CDBG Grants		
Citizen Participation and Public Hearings for Consolidated Plans (including Action Plans)			
<p>Provides that grantees may amend citizen participation plans to establish expedited procedures to draft, propose, or amend consolidated plans. Expedited procedures must include notice and reasonable opportunity to comment of no less than 5 days. The 5-day period can run concurrently for comments on the action plan amendment and amended citizen participation plans.</p> <p>In-person public hearings are not required. Grantees may meet public hearing requirements with virtual public hearings if: 1) national/local health authorities recommend social distancing and limiting public gatherings for public health reasons; and 2) virtual hearings provide reasonable notification and access for citizens in accordance with the grantee’s certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.</p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19 and FY 20 Grants	Immediately Available ✓	
	CDBG Grants before FY 19		Not Available ✕
Deadline to Submit Consolidated Plans (including Annual Action Plans)			
<p>Extends the deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019* and 2020 to August 16, 2021.</p> <p><i>Without extension, the deadline for fiscal year 2020 grants would be August 16, 2020, in accordance with section 116(b) of the HCD Act and 24 CFR 91.15.</i></p> <p><i>*The deadline for fiscal year 2019 passed on August 16, 2019 (plans due then have been submitted).</i></p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19* and FY 20 Grants	Immediately Available. ✓	
	CDBG Grants before FY 19		Not applicable. ✕
Waiver and Alternative Requirement Authority			
<p>Authorizes the Secretary to issue statutory and regulatory waivers/alternative requirements for CDBG-CV and some CDBG funds when necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus.</p> <p>Prohibits waivers/alternative requirements related to fair housing, nondiscrimination, labor standards, and the environment.</p> <p><i>HUD has additional regulatory waiver and statutory suspension authorities that it may use for CDBG Grants before fiscal year 2019 if necessary.</i></p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19 and FY 20 Grants	Immediately Available. ✓	
	CDBG Grants before FY 19		Not applicable. ✕

Submit your questions to: CPDQuestionsAnswered@hud.gov



Leveraging FEMA & Other Federal Grant Funding Opportunities for COVID-19

April 7, 2020



Introductions



Mary Beth Coburn
P.E., Partner

Best Best & Krieger



Rob Reid
Director,
Capital Projects &
Infrastructure

Guidehouse

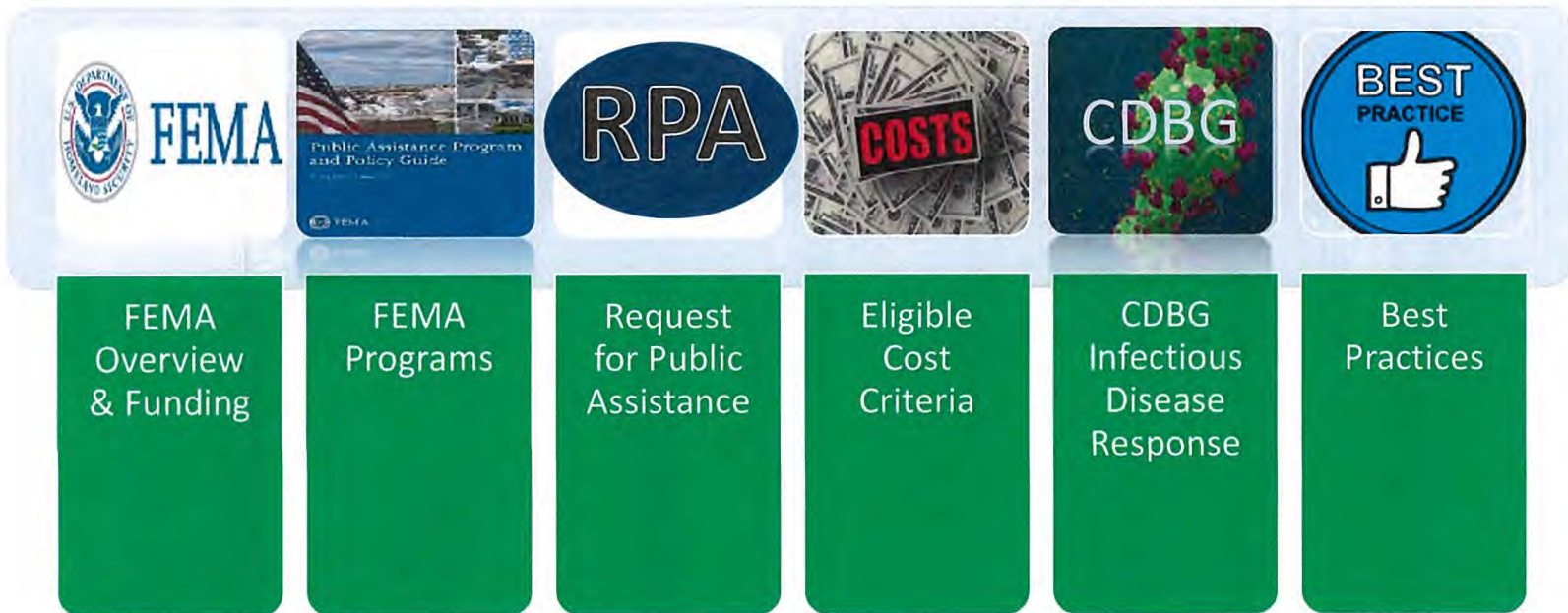


Catherine Ures
Vice President
of Consulting

Nan McKay
& Associates



Agenda



CARES ACT

- | | |
|--|--|
| <ul style="list-style-type: none">• \$500 billion - loans and assistance to companies, state and local governments.• \$150 billion - Coronavirus Relief Fund for states and local governments• \$45 billion - FEMA Disaster Relief Fund• \$100 billion - new program at the Department of Health and Human Services• \$25 billion - Federal Transit Administration for grants to public transit agencies.• \$14.25 billion - institutions of higher education• \$13.5 billion - local elementary and secondary educational• \$10 billion - publicly owned commercial airports | <ul style="list-style-type: none">• \$5 billion - Community Development Block Grants• \$4 billion - homeless assistance grants• \$3.5 billion - Child Care Development Block Grant• \$3 billion - Section 8 and other rental assistance programs• \$1.5 billion - Centers for Disease Control and Prevention• \$1.5 billion - Economic Development Administration for economic adjustment assistance for communities.• \$1 billion -Community Services Block Grant Program• \$850 million - Department of Justice for state and local law enforcement• \$685 million - public housing operating funds• \$400 million - help states prepare for the 2020 elections |
|--|--|

What is FEMA

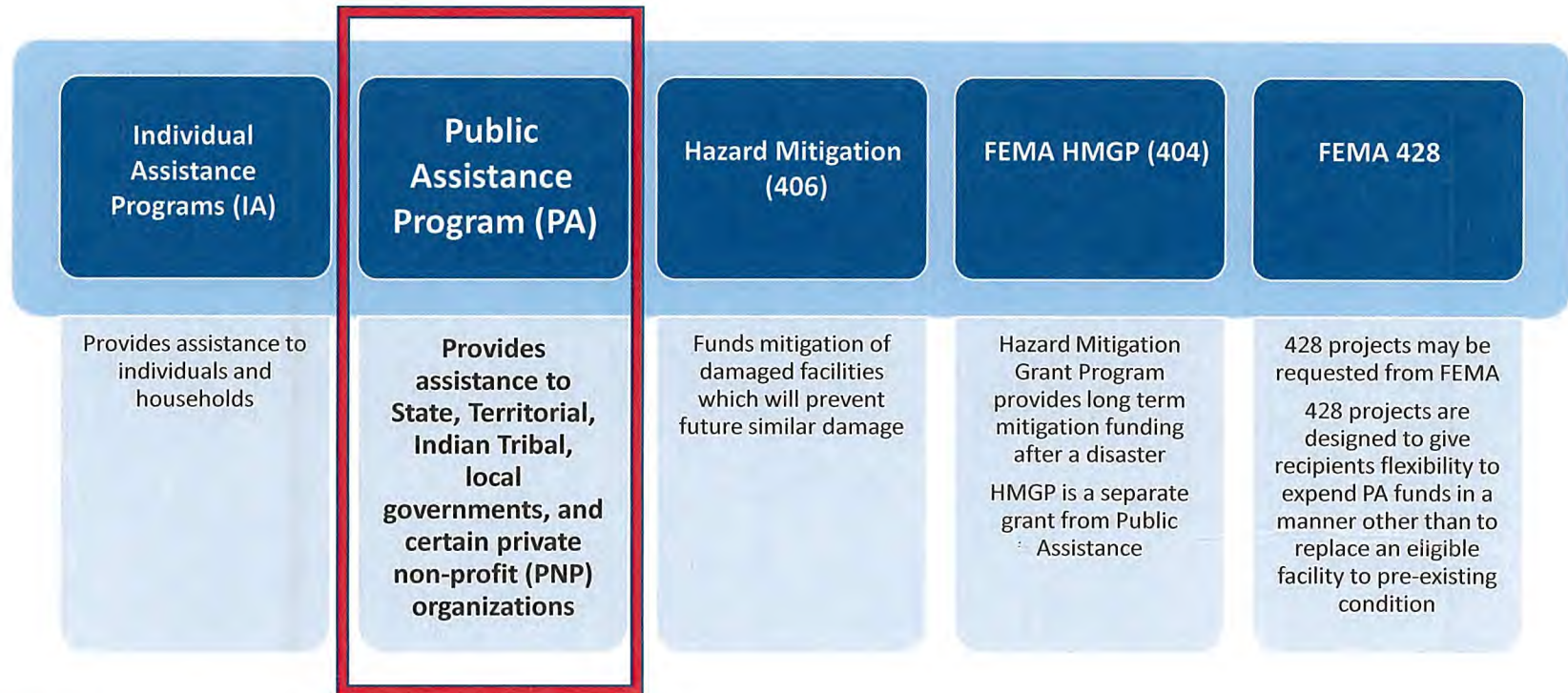
- Source for incremental eligible reimbursement costs
 - Draws upon the FEMA Disaster Relief Fund to provide public and individual assistance for major disasters
 - Provides supplemental Federal disaster grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and the facilities of certain PNP organizations
- Assistance provided through FEMA PA is subject to a cost share.
 - The Federal share is not less than 75 percent of the eligible costs.
 - Although the Federal share is usually 75 percent, if actual Federal obligations, excluding administrative costs, meet or exceed a qualifying threshold, FEMA may recommend an increase up to 90 percent.
 - Emergency Work may be increased in limited circumstances if warranted.



75%

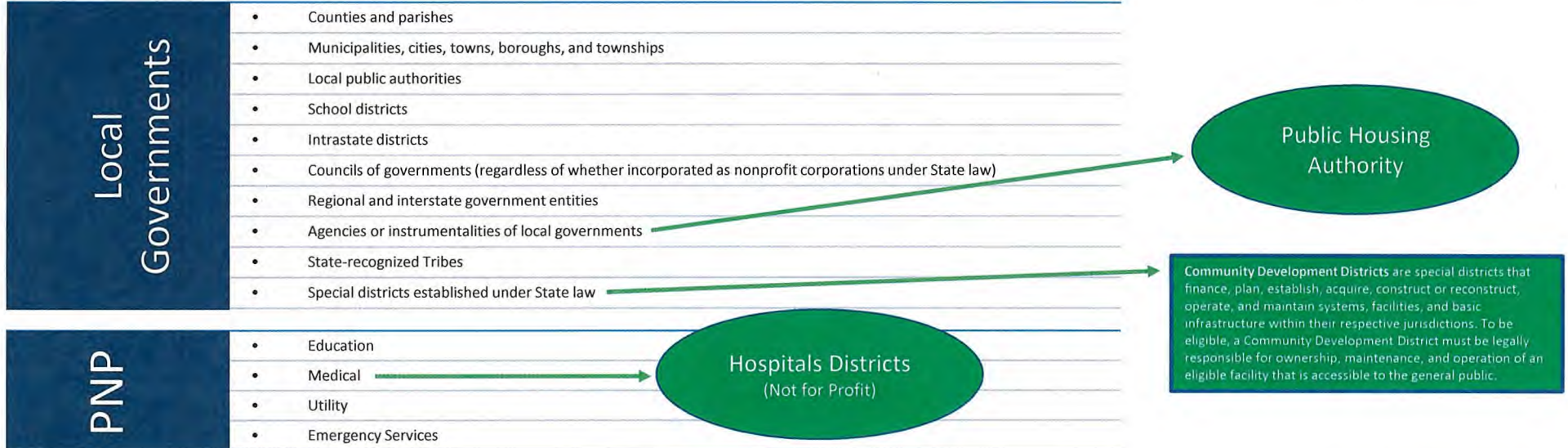
+ 5% Administration fee

FEMA Disaster Grants



FEMA Public Assistance

- Provide assistance to **State, Territorial, Indian Tribal, and local governments, and certain types of PNP organizations** so that communities can quickly respond to and recover from major disasters or emergencies declared by the President.



FEMA Acronyms

FEMA: Federal Emergency Management Agency

PA: Public Assistance program

PNP: Private Nonprofit

RPA: Request for Public Assistance

PW: Project Worksheet

Cat B: Category B Project Worksheet for “Emergency Protective Measures”

PAPPG: Public Assistance Program and Policy Guide

Grantee: State (sometimes tribal) government to which grant is awarded

Subrecipient: Applicant for funding, such as a county, state agency, community, or eligible nonprofit

FEMA Emergency Work Eligibility

Emergency protective measures conducted before, during, and after an incident are eligible if the measures:

- Eliminate or lessen immediate threats to lives, public health, or safety; OR
- Eliminate or lessen immediate threats of significant additional damage to improved public or private property in a cost-effective manner

A	Debris Removal
B	Emergency Protective Measures
C	Damage Caused During Performance of Emergency Work (Category A or B)

Simplified FEMA Process

FEMA is simplifying the Public Assistance application and funding process to address the magnitude of this event and allow local officials to receive eligible funding more quickly. [Coronavirus \(COVID-19\) Pandemic: Public Assistance Simplified Application](#)



Online applicants can:



The simplified process:



Applicant Briefing

The Grantee holds an applicant briefing and provides high-level information regarding the PA Program.

Topics Covered

Application procedures

Project funding

Hazard mitigation

Administrative requirements

Procurement requirements

Environmental & historic compliance

General eligibility criteria

Documentation requirements

Recordkeeping

To obtain **maximum benefit** from the briefing, a potential Applicant should:

- Send representatives from its management, emergency response, public works, and accounting/finance/procurement operations; and
- Designate a primary point of contact to interact with the Grantee and FEMA.

Request for Public Assistance (RPA)

If a State, Territorial, Tribal, or local government entity or PNP wishes to seek PA funding, it **must first submit a Request for Public Assistance (RPA)** to FEMA, through the Grantee, generally within 30 days of the respective area being designated in the declaration.

- The RPA (FEMA Form 90- 49) is the form to apply for the PA Program
- FEMA also refers to it as a pre-application

RPA Form

- It's Simple!
- Requests Basic Information
 - ✓ Agency Name
 - ✓ Address
 - ✓ Point of Contact

Submitting the RPA

FEMA Form 90- 49

FEMA Grants Portal

<https://grantee.fema.gov/>

 [Sign in to Your Account](#)

USERNAME

[Forgot your username?](#)

PASSWORD

[Forgot your password?](#)

[SIGN IN](#)

[⊕ Register Your Organization and Request Public Assistance](#)

[illegible]

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

- RPA's requested by April 17th but we believe the state will permit a later submission
- Cal OES Forms 130 & 89 also required for reimbursement



Eligible Costs Overview

- COVID-19 costs are **reimbursable through FEMA-Public Assistance (Category B)** funding:
 - Through each state, FEMA is reimbursing 75% of cost plus a 5% management cost fee
 - Organizations can request 50% of amount submitted in the initial project worksheet (PW) as expedited funding
- Entities must identify **incremental costs** incurred due to COVID in areas including, but not limited to:
 - Force Account Labor (Permanent, Part-time, Seasonal, Re-assigned, Disaster Hires, Backfill Employees)
 - Force Account Equipment and Leased Equipment
 - Material (Purchased supplies and/or taken from stock)
 - Contract Services
- The FEMA program focuses on cost reimbursement, but revenue loss (for PNPs) should also be tracked as additional federal and state programs become available
- Contract Services
- Mutual Aid: mutual aid agreement must reference compensation

Eligible Cost Details

- Under the COVID-19 Emergency Declaration, emergency protective measures (response costs) including, but not limited to, the following, may be eligible for reimbursement through FEMA or other federal agencies.
- Management, control and reduction of immediate threats to public health and safety:
 - Emergency Operation Center costs
 - Training specific to the declared event (PPE training, medical shelter operations, etc.)
 - Disinfection of eligible public facilities
 - Technical assistance to local governments or eligible PNPs on emergency management and control of immediate threats to public health and safety
- Emergency medical care:
 - Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility
 - Related medical facility services and supplies
 - 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)
 - Use of specialized medical equipment
 - Medical waste disposal
 - Emergency medical transport

Source: FEMA FACT SHEET – March 19, 2020 [Coronavirus \(COVID-19\) Pandemic: Eligible Emergency Protective Measures](#)

Eligible Cost Details

- Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)
 - All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC and 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
- 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
- Movement of supplies and persons
- Security and law enforcement
- Communications of general health and safety information to the public
- Search and rescue to locate and recover members of the population requiring assistance

Source: FEMA FACT SHEET – March 19, 2020 [Coronavirus \(COVID-19\) Pandemic: Eligible Emergency Protective Measures](#)

Examples of Eligible Costs

- Labor
 - Incremental (added staff or OT) staffing costs associated with COVID-19 (command centers, increased ED and urgent care staffing, EVS, plant maintenance, etc.).
 - Incremental / un-budgeted traveler nurses or other Contract Labor
 - Staff training and preparation, if it results in incremental costs (i.e., OT)
 - Labor costs must be documented to the FTE level and for the specific assignment.
 - Note: Currently FEMA will not reimburse for Exempt employee time
- Supplies and Equipment:
 - All equipment, pharmaceutical and supply purchases associated with COVID-19 (PPE, gloves, gowns, tents, beds, lab equipment, ventilators, etc.).
 - Computer purchases and network efforts due to work at home efforts.
 - Purchase of generators
- Other:
 - Expense associated with adding capacity (getting new units ready).
 - Direct cost of testing and treating potential and actual COVID-19 patients.
 - Retrofitting a clinic to serve as a hospital

Eligible Cost Criteria – Exigent or Emergency

When referring to procurement activity, FEMA defines both exigency and emergency as situations that demand immediate aid or action. The difference between the two is that:

Exigency

In the case of an exigency, there is a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to the applicant, and use of competitive procurement proposals would prevent the urgent action required to address the situation. Thus, a noncompetitive procurement may be appropriate.

Emergency

In the case of an emergency, a threat to life, public health or safety, or improved property requires immediate action to alleviate the threat.

Eligible Cost Criteria – Exigent or Emergency

FEMA FACT SHEET – March 20, 2020 [Procurement Under Grants: Under Exigent or Emergency Circumstances](#)

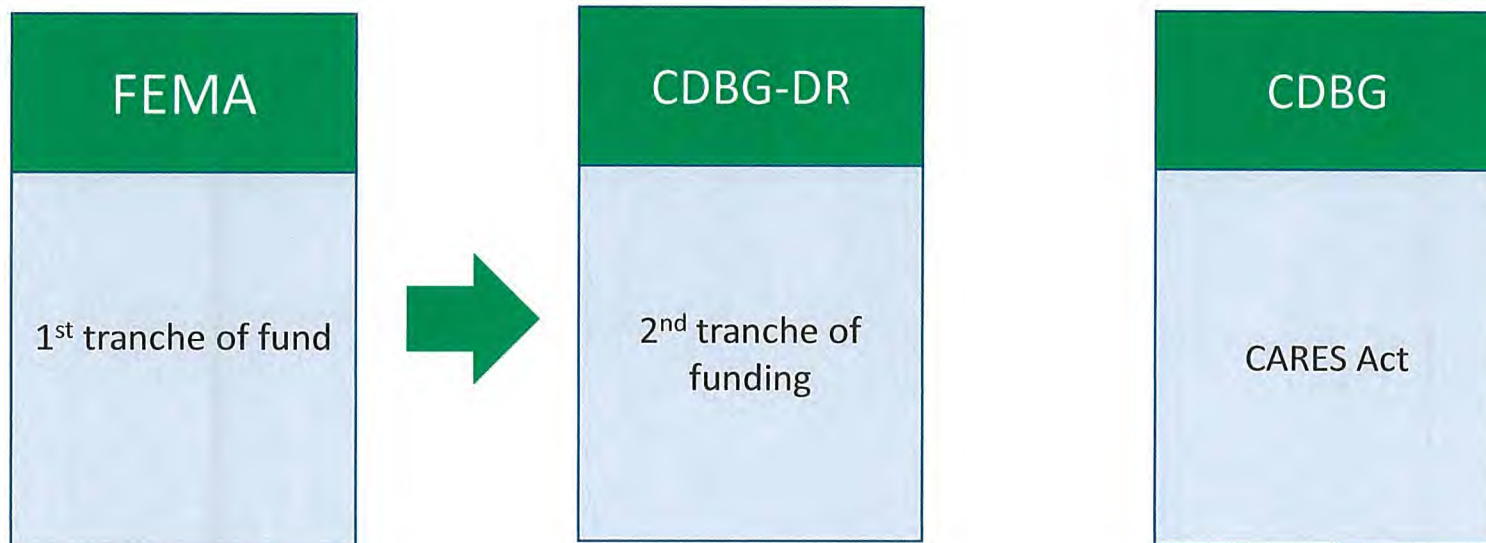
Documentation

FEMA approval is not required for use of noncompetitive procurements under the emergency or exigency exception; however, the non-state entity must **document its justification** for using noncompetitive procurements and must still comply with other procurement requirements and ensure that costs are reasonable.


Procurement Policies

Non-state entities should consult as soon as possible with all appropriate parties, including their own legal counsel, **to review their procurement policies, actions, and contracts and compare them to the Federal procurement requirements.**


FEMA vs CDBG




What is CDBG?



Housing and Community Development (HCD) Act of 1974 created the CDBG Program which is administered by HUD



Flexible community development funds distributed each year by a formula that considers population and measures of distress including poverty, age of housing, housing overcrowding, and growth lag



Grantees determine what activities they will fund as long as certain requirements are met, including that each activity is eligible and will meet one of the three broad national objectives of the program

CDBG Infectious Disease Response

Grantees may use Community Development Block Grant (CDBG) funds for a range of eligible activities that prevent and respond to the spread of infectious diseases such as the coronavirus disease 2019 (COVID-19).

\$5 Billion
Available
Funding

\$2 billion will be allocated to states and local governments who received an allocation under the fiscal year 2020 formula

\$1 billion will go directly to states

\$2 billion will be allocated to states, cities, counties and local governments based on the prevalence of risk of COVID-19 and related economic and housing disruption

CDBG Eligible Activities

Buildings and Improvements, Including Public Facilities

Assistance to Businesses, including Special Economic Development Assistance

Public Services (Capped at 15% of the Grant, with Some Exceptions)

Planning, Capacity Building and Technical Assistance

CDBG Planning Considerations

Infectious disease response conditions rapidly evolve and may require changes to the planned use of funds:

- CDBG grantees **must amend their Consolidated Annual Action Plan** when there is a change to the allocation priorities or method of distribution of funds; an addition of an activity not described in the plan; or a change to the purpose, scope, location, or beneficiaries of an activity (24 CFR 91.505).
- If the changes meet the criteria for a “substantial amendment” in the grantee’s citizen participation plan, the grantee **must follow its citizen participation process for amendments** (24 CFR 91.105 and 91.115).

Strategically Positioning Your Organization

LABOR	Verify that employee labor policies include a reference to the type of work that allows overtime. Document overtime for exempt and nonexempt employees separately.
	Set up crisis specific timekeeping code.
	Track number of hours by date, employee ID, and standard vs. overtime hours, location of work performed.
	Document description of tasks completed to support labor time and justify activities are above and beyond standard operations.

Strategically Positioning Your Organization

INVENTORY

- Quantify existing stock (“status quo”) with material/equipment details and unit costs.
- Maintain logs of materials pulled from system inventory/stock.

Strategically Positioning Your Organization

CONTRACTS MATERIAL EQUIPMENT	Document exigency/emergency procurement needs and retain in project files.
	Ensure formal procurement processes are on file for the organization to follow. Follow formal and proper procurement processes whenever possible and consider federal acquisition rules.
	Issue separate purchase orders using a specific code when leveraging preexisting contracts.
	Require vendors provide details on invoices and change orders (quantities of services provided, unit costs, location of services performed, date of work performed, job reports/logs).
	If applicable, ensure intergovernmental agreements are executed, when coordinating donated resources (labor and materials).
	Avoid cost-plus contracts and include not to exceed values on T&M contracts.

Strategically Positioning Your Organization

SUBMIT

Request 50% of the eligible federal share in an initial expedited Project Worksheet.

TIMELINESS

Time is of the essence. Federal and state capacity to review and reimburse will be stretched.

COMPLIANCE

Assistance is based on authority in statutes, executive orders (EOs), regulations, and policies. If an entity does not comply with all applicable statutes, EOs, regulations, and policies, FEMA may take one of several actions including disallowing all or part of the cost of the project not in compliance.



Key Risk Areas to Avoid

Improper Process:

Even under emergency conditions, do not assume that improper processes (procurement, timekeeping, etc.) will be eligible for reimbursement

Insufficient Documentation:

A lack of adequate details or missing supporting documentation – can lead to a significant loss in eligible grant funding.

Unclear Accounting:

With multiple funding sources potentially being made available, an eligible grant could be lost due to an inability to clearly articulate how different funding sources are utilized and that benefits are not duplicated.

Lack of Transparency:

The lack of documentation and communication of operational decisions with relevant stakeholders at the State and Federal level could jeopardize the reputation of your organization and could also lead to the loss of eligible grant funding.

Contact Information

Mark your calendars! Follow-up FEMA webinar is April 22 at 10 a.m.

Best Best & Krieger LLP

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Partner

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