

# Public Assistance: Non-Congregate Sheltering Delegation of Authority

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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 non-congregate 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 justification for the option selected.
- The funding for non-congregate sheltering to meet the needs of the Public Health Emergency cannot be duplicated by another federal agency, including the U.S. Department of Health and Human Services or Centers for Disease Control and Prevention.
- Applicable Environmental and Historic Preservation laws, regulations, and executive orders apply and must be adhered to as a condition of assistance.

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March 18, 2020

MEMORANDUM FOR: Regional Administrator  
Regions I – X

FROM: Keith Turi   
Assistant Administrator  
Recovery Directorate

SUBJECT: Non-Congregate Sheltering Delegation of Authority  
Public Assistance Program and Policy Guide Waiver

Subsequent to President Trump's March 13, 2020, Nationwide Emergency Declaration for Coronavirus Disease 2019 (COVID-19), the U.S. Department of Homeland Security's Federal Emergency Management Agency (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.

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.

As FEMA's Assistant Administrator for Recovery, I have the authority to approve non-congregate sheltering under existing policy in FP 104-009-2, *Public Assistance Program and Policy Guide*.<sup>1</sup> Under the Nationwide Emergency Declaration, and for the duration of the Secretary of Health and Human Services' declaration of a Public Health Emergency for COVID-19, I delegate this authority to the Regional Administrators.

As part of this delegation, I am amending the criteria for approval of non-congregate sheltering, along with necessary support services to meet the needs of the public health emergency, to the following criteria:

- 1) 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.
- 2) 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.
- 3) 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.<sup>2</sup>

<sup>1</sup> *Public Assistance Program and Policy Guide*, FP 104-009-2, at pg. 66 (April 2018).

<sup>2</sup> FEMA *Fact Sheet Procurement Under Grants Conducted Under Exigent or Emergency Circumstances*, March 16, 2020. Found at [https://www.fema.gov/media-library-data/1584386517416-40bc24e5a2c4154c1ee44ed143e6491b/Procurement\\_During\\_EE\\_Circumstances\\_Fact\\_Sheet\\_508AB.pdf](https://www.fema.gov/media-library-data/1584386517416-40bc24e5a2c4154c1ee44ed143e6491b/Procurement_During_EE_Circumstances_Fact_Sheet_508AB.pdf),

- 4) Prior to approval, the applicant must provide an analysis of the implementation options that were considered and a justification for the option selected.
- 5) The funding for non-congregate sheltering to meet the needs of the Public Health Emergency cannot be duplicated by another federal agency, including the U.S. Department of Health and Human Services or Centers for Disease Control and Prevention.
- 6) Applicable Environmental and Historic Preservation laws, regulations, and executive orders apply and must be adhered to as a condition of assistance.

If you have any questions about implementation, please contact Traci Brasher, Acting Public Assistance Division Director.

cc: Regional Recovery Division Directors, Regions I – X  
Adrian Sevier, Chief Counsel  
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