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 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.

Coronavirus (COVID-19) Pandemic: Non-Congregate Sheltering

Release date: March 31, 2020 Release Number: Frequently Asked Questions

Subsequent to President Trump's March 13, 2020, Nationwide Emergency Declaration for Coronavirus 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 protect public health and save lives.

This document provides answers to frequently asked questions about non-congregate sheltering during the Secretary of Health and Human Services' (HHS') declaration of a Public Health Emergency for COVID-19.

1. What is the difference between medical sheltering, quarantine facilities, and non-congregate sheltering? Do alternative medical care facilities count as non-congregate shelters?

The term "medical sheltering" is meant to address the specific needs directly resulting from this Public Health Emergency. For purposes of eligibility under the COVID-19 declarations, FEMA will consider non-congregate sheltering for health and medical-related needs, such as isolation and quarantine resulting from the public health emergency. Alternate care sites and temporary hospitals are not considered non-congregate sheltering and such requests should be routed through the proper channels. Please refer to the Emergency Medical Care for COVID-19 Fact Sheet

2. Who is the target population for non-congregate sheltering?

Examples of target populations include those who test positive for COVID-19 who do not require hospitalization but need isolation (including those exiting from hospitals); those who have been exposed to COVID-19 who do not require hospitalization; and asymptomatic high-risk individuals needing social distancing as a precautionary measure, such as people over 65 or with certain underlying health conditions (respiratory, compromised immunities, chronic disease). Sheltering specific populations in non-congregate shelters should be determined by a public health official's direction or in accordance with the direction or guidance of health officials by the appropriate state or local entities. The request should specify the populations to be sheltered. Non-congregate sheltering of healthcare workers and first responders who require isolation may be eligible when determined necessary by the appropriate state, local, tribal, or territorial public health officials and when assistance is not duplicated by another federal agency.

3. What forms of non-congregate sheltering will FEMA support?

Sheltering solutions should be determined by the Applicant requesting assistance, such as hotels, motels, dormitories, or other forms of non-congregate sheltering. The solutions should meet the criteria of non-congregate sheltering for the COVID-19 emergency, including what is necessary to protect public health and safety, be in accordance with guidance provided by appropriate health officials, and be reasonable and necessary to address the threat to public health and safety.

4. Must the Centers for Disease Control and Prevention (CDC) or state/local public health officials direct the use of non-congregate sheltering? Is it okay if another state/local official (e.g., emergency management office) directs the use?

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 or be done in accordance with the direction or guidance of health officials by the appropriate state or local entities, in accordance with applicable state and local laws.

5. Does the non-congregate sheltering delegation apply to both emergency and major disaster declarations?

Yes, the delegation applies to all incidents declared as a result of COVID-19.

6. Can you provide a template for non-congregate sheltering requests?

Yes, there is a template request letter that the Applicant can use. In addition, Template Project Worksheets are currently being developed. Please contact your Regional point of contact for additional information concerning the template.

7. Can approval be state-wide? Could a FEMA Regional Administrator approve a state-wide strategy rather than individual requests?

Requests should be submitted based on the state and/or local public health orders, along with relevant public health guidance that recommends sheltering be conducted in the manner that is being requested for reimbursement and must meet the criteria of the guidance issued by FEMA for COVID-19. In instances where the state is issuing the public health order along with relevant public health guidance for non-congregate sheltering for the state, it is possible for FEMA to approve a state-wide request.

A state-wide non-congregate sheltering request should outline the state's non-congregate sheltering plan with options that will be utilized in the state by local governments. Upon pre-approval of non-congregate sheltering, the state can be the sub-recipient, or a county/local government can be a sub-recipient. Tracking mechanisms must be in place to provide data and documentation to establish the eligibility of costs for which the Applicant is requesting Public Assistance funding (including the need for noncongregate sheltering of each individual, length of stay, and costs). As with any activity, lack of support documentation may result in FEMA determining that some or all of the costs are ineligible.

8. Can a FEMA Regional Administrator approve non-congregate sheltering after it has already begun?

In limited circumstances where the nature of the emergency did not make a request feasible prior to beginning non-congregate sheltering, the Regional Administrator may approve non-congregate sheltering after it has already commenced.

9. Can a FEMA Regional Administrator allowed to delegate approval of non-congregate sheltering?

No, this delegation may not be re-delegated. The Regional Administrator should approve, partially approve, or deny the request in writing. This documentation should be uploaded to the project in FEMA Grants Manager.

10. What wrap-around services are eligible? For example, are food or mental health counseling eligible?

Eligible costs related to sheltering should be necessary based on the type of shelter, the specific needs of those sheltered, and determined necessary to protect public health and safety and in accordance with guidance provided by appropriate health officials. However, support services such as case management, mental health counseling, and others are not eligible.

11. How long can an individual to stay in non-congregate sheltering? How long can a non-congregate sheltering mission last?

The length of non-congregate sheltering depends on the needs in each area and will be in accordance with the guidance and direction from appropriate health officials. Sheltering eligibility for sheltering activities may not extend beyond the state or local public health order or the HHS Public Health Emergency for COVID-19. Length of sheltering for individuals is based on health guidance and be limited

to what is needed to address the immediate threat to public health and safety. The mission will depend on the level of community transmission in each area. Areas with high rates of community transmission, hospital admissions, and fatalities may need up to eight weeks. Reassessment at periodic intervals is necessary.

Regional Administrators should approve non-congregate sheltering in 30-day increments, or less if a reassessment determines there is no longer a public health need, but not to exceed the duration of the order of the state or local public health officer. The state or local will need to provide a re-assessment of the continuing need for emergency non-congregate sheltering from a state public health official, as well as a detailed justification for the continuing need for emergency non-congregate sheltering. The noncongregate sheltering for an individual should be in accordance with the guidance and direction from appropriate health officials.

12. How will we handle congregate and non-congregate sheltering missions for future disasters in areas impact by COVID-19?

Sheltering in future events will need to conform to current guidelines in place, including considerations for shelter operations in a pandemic environment. If there are additional costs incurred for such shelter operations, FEMA may reimburse those costs as eligible under the subsequent declaration requiring the shelter operations.

13. Can you provide additional clarity on avoiding duplication of benefits between FEMA and HHS?

FEMA cannot duplicate assistance provided by another Federal agency. In this case, HHS is providing funding for certain costs in response to the COVID-19 pandemic. Each Applicant will need to agree to the stipulation in the grant conditions of all FEMA awards that funding is not also being received from another funding source. FEMA is coordinating with HHS to share information about funding from each Agency to assist in the prevention of duplication of benefits.

Coronavirus (COVID-19) Pandemic: Purchase and Distribution of Food Eligible for Public Assistance

Release date: April 12, 2020

Release Number: FEMA Policy FP 104-010-03

BACKGROUND

Under the President's March 13, 2020, COVID-19 emergency declaration and subsequent major disaster declarations for COVID-19, state, local, tribal, and territorial (SLTT) government entities and certain private non-profit (PNP) organizations are eligible to apply for assistance under the FEMA Public Assistance (PA) Program. This policy is applicable to eligible PA applicants only and is exclusive to emergency and major disaster declarations for the COVID- 19 pandemic.

As of April 9, 2020, 51 states and territories had "stay at home" orders in place. The population at highrisk for severe illness from COVID-19 includes people 65 years and older and people of any age who have serious underlying medical conditions, including people with chronic lung disease or moderate to severe asthma, people with serious heart conditions, people who are immunocompromised (e.g., those undergoing cancer treatment, smokers, those with HIV or AIDS), and people with severe obesity, diabetes, or liver disease, and people undergoing kidney dialysis. Due to the impact of the COVID-19 pandemic, there may be areas where it will be necessary as an emergency protective measure to provide food to meet the immediate needs of those who do not have access to food as a result of COVID-19 and to protect the public from the spread of the virus.

PURPOSE

This policy defines the framework, policy details, and requirements for determining eligible work and costs for the purchase and distribution of food in response to the COVID-19 Public Health Emergency to ensure consistent and appropriate implementation across all COVID-19 emergency and major disaster declarations. Except where specifically stated otherwise in this policy, assistance is subject to PA Program requirements as defined in Version 3.1 of the Public Assistance Program and Policy Guide (PAPPG).

PRINCIPLES

A.FEMA will provide flexibility to applicants to protect the health and safety of impacted communities in response to the COVID-19 Public Health Emergency through the purchase and distribution of food.

B.FEMA will responsibly implement this policy and any assistance provided in a consistent manner through informed decision-making and accountable documentation.

C.FEMA will engage with interagency partners, including the U.S. Department of Agriculture (USDA), the U.S. Department of Health and Human Services (HHS), and U.S. Department of Housing and Urban Development (HUD), to ensure this assistance does not duplicate other available assistance. Engagement with USDA will include coordination with USDA's efforts on food bank response.

REQUIREMENTS

A. APPLICABILITY

1. This policy applies to:

- All Presidential emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, issued for the COVID-19 Public Health Emergency.
- Eligible PA applicants under the COVID-19 emergency declaration or any subsequent COVID-19 major disaster declaration.
- This policy does not apply to any other emergency or major disaster declaration.

B. GENERAL ELIGIBILITY CONSIDERATIONS

Outcome: To define the overarching eligibility framework for purchasing and distributing food in response to COVID-19 declarations.

1. Legal Responsibility.

a. To be eligible for PA, an item of work must be the legal responsibility of an eligible applicant.5 Measures to protect life, public health, and safety are generally the responsibility of state, local, tribal, and territorial (SLTT) governments.

b. Legally responsible SLTT governments may enter into formal agreements or contracts with private organizations, including private nonprofit (PNP) organizations such as food banks, to purchase and distribute food when necessary as an emergency protective measure in response to the COVID-19 Public Health Emergency. In these cases, PA funding is provided to the legally responsible government entity, which would then reimburse the private organization for the cost of providing those services under the agreement or contract.

2. Work Eligibility.

a. In accordance with sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the "Stafford Act"), emergency protective measures necessary to save lives and protect public health and safety, including the purchase and distribution of food, may be reimbursed under the PA program.

b. When necessary as an emergency protective measure, eligible work related to the purchase and distribution of food in response to the COVID-19 pandemic includes:

- Purchasing, packaging, and/or preparing food, including food commodities, fresh foods, shelfstable food products, and prepared meals;
- Delivering food, including hot and cold meals if necessary, to distribution points and/or individuals, when conditions constitute a level of severity that food is not easily accessible for purchase; and
- Leasing distribution and storage space, vehicles, and necessary equipment.

c. Several indicators may demonstrate the need to purchase and distribute food in response to the COVID-19 pandemic:

• Reduced mobility of people in need due to government-imposed restrictions, including "stay-athome" orders, which prevent certain populations from accessing food;

- Marked increase or atypical demand for feeding resources; or
- Disruptions to the typical food supply chain within a given jurisdiction.

d. Populations in an impacted community that may need the provision of food as a lifesaving and lifesustaining commodity, may include:

- Those who test positive for COVID-19 or have been exposed to COVID-19, but who do not require hospitalization;
- High-risk individuals, such as people over 65 or with certain underlying health conditions; and
- Other populations based on the direction or guidance of the appropriate public health official.

3. Cost Eligibility.

a. All claimed costs must be necessary and reasonable in order to respond to the COVID-19 Public Health Emergency and are subject to standard program eligibility and other Federal requirements, including the prevailing cost-share for the respective declaration.8

b. Applicants must follow applicable cost principles and procurement requirements.9

- Costs claimed by SLTT governments must be reasonable pursuant to Federal regulations and Federal cost principles.10 A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
- States and territorial governments are required to follow their own procurement procedures, comply with 2 CFR §200.322, and include any clauses required by 2 CFR §200.326. Local and tribal governments must follow their own procedures and comply with 2 CFR §200.318.
- In accordance with the March 17, 2020, memorandum from David Bibo, Acting Associate Administrator for the Office of Response and Recovery, and Bridget E. Bean, Assistant Administrator for the Grants Program Directorate, for the duration of the Public Health Emergency, as determined by U.S. Department of Health and Human Services (HHS), local governments, tribal governments, PNPs, and other non-state entities may proceed with new and existing non-competitively procured contracts. The March 17, 2020 memorandum and other information related to procurement specific to COVID-19 declarations are available on the FEMA website at www.fema.gov/medialibrary/assets/documents/186350.

c. Pursuant to Section 312 of the Stafford Act, FEMA is prohibited from providing financial assistance where such assistance would duplicate funding available from another program, insurance, or any other source for the same costs.11

4. Time Limitations.

a. FEMA may provide funding for an initial 30-day time period.

b. SLTT governments may request a 30-day time extension from the Regional Administrator (RA) with documentation showing continued need.

c. Work may not extend beyond the duration of the COVID-19 Public Health Emergency, as determined by HHS.

ADDITIONAL INFORMATION

REVIEW CYCLE

This policy will be reviewed periodically during the COVID-19 Public Health Emergency. The Assistant Administrator of Recovery is responsible for authorizing any changes or updates. This policy will sunset with the closure of the national emergency for COVID-19 and any subsequent major disaster declarations for COVID-19.

AUTHORITIES and REFERENCES

Authorities

Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended Title 44 of the Code of Federal Regulations, Part 206, Subparts G and H

References

Public Assistance Program and Policy Guide, Version 3.1

MONITORING AND EVALUATION

FEMA will closely monitor the implementation of this policy through close coordination with regional and field staff, as appropriate, as well as interagency partners and SLTT stakeholders. Various planning calls are conducted daily related to COVID-19 declarations. Additionally, FEMA has set up a mailbox for COVID-19 questions and concerns at covid19paoperations@fema.dhs.gov.

QUESTIONS

Direct questions to covid19paoperations@fema.dhs.gov

FEMA FACT SHEET Coronavirus (COVID-19) Pandemic: Emergency Medical Care

The FEMA *COVID-19 Emergency Protective Measures Fact Sheet* included a list of eligible emergency medical care activities. This fact sheet provides additional guidance related to the eligibility of emergency medical care activities as an emergency protective measure under the Emergency Declaration and any Major Disaster Declaration authorizing Public Assistance (PA) for COVID-19.

General Eligibility Considerations for Emergency Medical Care

Under the President's March 13 emergency declaration, and subsequent major disaster declarations, state, local, tribal, and territorial (SLTT) government entities and certain private non-profit (PNP) organizations are eligible to apply for PA.

Eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of public health officials may be reimbursed under the PA program. On March 19, 2020, FEMA released the *COVID-19 Emergency Protective Measures Fact Sheet* which outlines the types of emergency protective measures that may be eligible under the PA program in accordance with the COVID-19 Emergency Declaration.

General eligibility considerations for emergency medical care activities apply to all claimed work and associated costs. They include Applicant, Facility, Work, and Cost eligibility to which all claims are subject under the PA program.

Applicant Eligibility

SLTT government entities are eligible to apply for PA. Certain PNP organizations are eligible to apply for PA, including those that own and/or operate medical care facilities.

Private for profit entities, including for profit hospitals, are not eligible for assistance from FEMA under PA. SLTT government entities may contract with for profit hospitals to carry out eligible emergency protective measures. FEMA will reimburse the eligible Applicant for the cost of eligible work, and the Applicant will then pay the private entity for the provision of services.

Facility Eligibility

For SLTT governments, evaluating facility eligibility is not necessary for most emergency work. PNPs are generally



not eligible for reimbursement for emergency services because they are not legally responsible for providing those services.

PNPs that own or operate a medical or custodial care facility are eligible for:

- reimbursement of costs from FEMA related to patient evacuation when such an action is needed.
- in limited circumstances, reimbursement when essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital.
- reimbursement of costs for emergency medical care, as outlined in the Eligible Emergency Medical Care Activities section.

Work Eligibility

Work must be necessary as a direct result of the emergency or major disaster (44 CFR §206.223(a)(1)).

Costs must be directly related to COVID-19 cases. For example, emergency medical care costs related to a non-COVID-19 illness or injury are not eligible.

Costs for personal protective equipment (PPE) for health care providers who are working in a hospital treating COVID-19 patients are eligible, as it is necessary to prevent further spread of the virus and protect health care workers and other patients.

Cost Eligibility

All assistance provided under PA is subject to standard program eligibility requirements, including reasonable cost, procurement, and duplication of benefits requirements.

Procurement requirements differ between state versus non-state entities and by normal versus emergency/exigent circumstances. Procurement requirements for the COVID-19 Declarations are:

- States and territorial governments are required to follow their own procurement procedures as well as the Federal requirements for procurement of recovered materials and inclusion of required contract provisions per 2 C.F.R. §§ 200.317, 200.322, and 200.326.
- In accordance with the March 17, 2020, memorandum from David Bibo, Acting Associate Administrator for the Office of Response and Recovery, for the duration of the Public Health Emergency, as determined by the U.S. Department of Health and Human Services (HHS), local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing non-competitively procured contracts.
- SLTT governments may contract with medical providers, including private for-profit hospitals, to carry out
 any eligible activity described in the Eligible Emergency Medical Care Activities section below.
- The aforementioned memorandum and other information related to exigent and emergency circumstances procurement is available on the FEMA website at <u>www.fema.gov/news-</u>

FEMA cannot:

- Provide assistance under PA that is covered by another funding source.
- Duplicate assistance provided by HHS, including the Centers for Disease Control and Prevention (CDC), or other federal agencies.
 - This includes funding provided by the Public Health Emergency Preparedness Cooperative Agreement Program; the Public Health Crisis Response Cooperative Agreement; the Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases; and grants available from the HHS Office of the Assistant Secretary for Preparedness and Response.
- Provide PA funding for emergency medical care costs if they are covered by another source, including
 private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.
 - The Applicant must be able to provide documentation verifying that insurance coverage or any other source of funding, including private insurance, Medicaid, or Medicare, has been pursued or does not exist for the costs associated with emergency medical care and emergency medical evacuations.
 - Each applicant will need to agree to the stipulation in the grant conditions of all FEMA awards that funding is not also being received from another funding source. FEMA is coordinating with HHS to share information about funding from each agency to assist in the prevention of duplication of benefits.

Other Considerations for Emergency Medical Care Eligibility

When the emergency medical delivery system within a declared area is destroyed, severely compromised, or overwhelmed, FEMA may fund extraordinary costs associated with operating emergency rooms and with providing temporary facilities for emergency medical care or expanding existing medical care capacity in response to the declared incident. Costs associated with emergency medical care should be customary for the emergency medical services provided. Other eligibility considerations specific to emergency medical care activities as an emergency protective measure under the COVID-19 Declarations are provided in this section.

Time Limitations for Completion of Work

- Emergency medical care costs are typically only eligible for up to 30 days from the declaration date unless extended by FEMA.
- Under the COVID-19 Declarations, eligible emergency medical care costs are eligible for the duration of the Public Health Emergency, as determined by HHS.

Public versus PNP Facility

 Emergency medical care is eligible as an emergency protective measure for public and PNP medical facilities, as long as the facility provides an emergency medical service necessary to save lives and/or protect public health and safety. In this case, emergency medical care related to COVID-19 cases is eligible as an emergency protective measure.

Emergency Medical Care versus Long-Term Medical Treatment

 Only emergency medical care that is necessary to save lives and/or protect public health and safety is eligible.

Long-term medical treatment is not eligible. This includes:

- Medical care costs incurred once a COVID-19 patient is admitted to a medical facility on an inpatient basis.
- Costs associated with follow-on treatment of COVID-19 patients beyond the duration of the Public Health Emergency, as determined by HHS.
- Administrative costs associated with the treatment of COVID-19 patients.

Eligible Emergency Medical Care Activities

Emergency medical care activities under the COVID-19 Declarations include, but are not limited to:

- Triage and medically necessary tests and diagnosis related to COVID-19 cases
- Emergency medical treatment of COVID-19 patients
- Prescription costs related to COVID-19 treatment
- Use or lease of specialized medical equipment necessary to respond to COVID-19 cases
- Purchase of PPE, durable medical equipment, and consumable medical supplies necessary to respond to COVID-19 cases (note that disposition requirements may apply)
- Medical waste disposal related to eligible emergency medical care
- Emergency medical transport related to COVID-19
- Temporary medical facilities and expanded medical care facility capacity for COVID-19 for facilities overwhelmed by COVID-19 cases and/or to quarantine patients infected or potentially infected by COVID-19.
 - Temporary facilities and expansions may be used to treat COVID-19 patients or non-COVID-19 patients, as appropriate.

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 may also be eligible, subject to prior approval by FEMA.
 - Examples include sheltering for those who test positive for COVID-19 who do not require hospitalization but need isolation (including those exiting from hospitals); those who have been exposed to COVID-19 who do not require hospitalization; and asymptomatic high-risk individuals needing social distancing as a precautionary measure, such as people over 65 or with certain underlying health conditions (respiratory, compromised immunities, chronic disease).
- Sheltering specific populations in non-congregate shelters should be determined by a public health
 official's direction or in accordance with the direction or guidance of health officials by the appropriate
 state or local entities. The request should specify the populations to be sheltered.

More Information

For more information, visit the following websites:

1. Public Assistance Program and Policy Guide

See PAPPG V3.1, Chapter 2:VI. Emergency Work Eligibility; Chapter 2:VI.B.9. Emergency Medical Care; and Chapter 2:VI.B.17. Temporary Relocation of Essential Services

2. U.S. Department of Health and Human Services

Centers for Disease Control and Prevention: Coronavirus (COVID-19)

Centers for Medicare & Medicaid Services

3. FEMA: www.fema.gov/coronavirus