Presentation Overview

• FEMA Public Assistance Program and Keys to Relief Recovery
• Federal and State Contract Procurement and Avoiding Pitfalls In Reimbursement
• Local Preparation For Disaster Response and Tips for Setting Up Your Emergency Operations Center
Participants

• **John Catching**, Acting Branch Chief, Recovery Infrastructure, California Governor’s Office of Emergency Services
• **Stephanie Ogren**, Assistant Chief Counsel, Cal OES
• **Lori Nezhura**, Legislative Coordination Manager, California Governor’s Office of Emergency Services
• **Robert Pesapane**, Recovery Division Director, Federal Emergency Management Agency
• **Michael Gayrard**, Infrastructure Branch Chief, Federal Emergency Management Agency
• **Ann Winterman**, Legal Counsel, Federal Emergency Management Agency
• **Casey De Shong**, Congressional and Intergovernmental Affairs Liaison, Federal Emergency Management Agency
Public Assistance

- Federal assistance to state or local governments and eligible non-profit organizations
- Emergency protective measures and debris removal
- Repair, restoration or reconstruction of disaster-damaged public facilities and infrastructure
Within 30 DAYS of declaration, Applicants must submit a Request for Public Assistance to FEMA.

Within 60 DAYS of Recovery Scoping Meeting, the Applicant is required to identify and report all of its disaster-related damages and activities.

Within 60 DAYS of any determination, an Applicant may appeal.

Applicants participate in the Recovery Transition Meeting and should maintain all relevant documentation for at least THREE YEARS post closeout.

Debris Removal and any Emergency Work must be completed within SIX MONTHS of Declaration.

Permanent Work must be completed within 18 MONTHS of Declaration.
The Applicant must maintain all source documentation supporting project costs. To facilitate closeout and audits, the Applicant should file all documentation pertaining to each project with the corresponding Project worksheet as the permanent record of the project. Records are subject to audit by State auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector General, and the U.S. Government Accountability Office.

TIP: Proper documentation is invaluable to support future claims, particularly those involving hazard mitigation.
• FEMA must review each PA project to ensure the work complies with applicable Federal EHP laws, regulations and executive orders.

• The type, level, and length of EHP review will depend on the scope of work and the potential to impact sensitive environmental, historic or cultural resources.

• EHP may put conditions on a grant to avoid potential impacts to sensitive resources. It is the Applicant's responsibility to comply with these conditions.
• Actual or anticipated insurance proceeds will be deducted from the eligible project costs for facilities that are insured.

• As a condition of Public Assistance funding, all Applicants are required to obtain and maintain insurance coverage on all insurable facilities.

• For flood damaged facilities located within a Special Flood Hazard Area that are not covered by flood insurance, Federal assistance will be reduced by the maximum flood insurance proceeds that would have been payable had the facility been insured.
Record Keeping

The Recipient and the Applicant must keep all financial and program documentation for 3 years after the date of the Recipient’s final Financial Status Report (FSR). All records are subject to audit by the Federal government.

During the Recovery Transition Meeting, FEMA will work with the Applicant to:

- Ensure all claimed damage is sufficiently and accurately documented
- Discuss record retention requirements
- Discuss questions or concerns
Tools Available

• Procurement Rules Online

• FEMA Public Assistance Program and Policy Guide (PAPPG)
  https://www.fema.gov/

• System for Award Management
  www.sam.gov

• Procurement Disaster Assistance Team
  www.fema.gov/procurement-disaster-assistance-team
Federal & State Contract Procurement and Avoiding Pitfalls In Reimbursement
Keys to Federal and State Reimbursement

1. Start the planning process now and be prepared before a disaster strikes
2. Consult legal counsel and be familiar with nuances of federal and state contract requirements for procurement
3. Multiple benefits to preparing agreements that include federal requirements now
Early Preparation is Key

Practical and Procedural Considerations

• Adopt emergency procurement procedures and update procurement policies
• Develop contracts for construction and professional services, and purchasing that meet local, state, and federal requirements
  - Store electronically
Considerations for Federal Contracting

- Cost plus percentage of costs contracts prohibited
- Time and materials contracts should be avoided
  - T&M Contracts are only permissible for local governments in the initial stages of disaster
  - T&M contracts must include “not to exceed” clause
- Local hire and local preference policies not permitted. Different from Federal authority to conduct local hires
- Know which provisions are “mandatory” under federal law
Contracting Tips

• Understand the application process and forms
  - Cal OES 89, 126 and 130

• How to reconcile state and federal law contract requirements?
  - Example: Davis Bacon v. CA prevailing wage

• Record Retention Requirement
  - 3 years from start date of retention period identified in Cal OES “audit waiver” letter

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Benefits of Developing 2 CFR 200 Compliant Agreements Now

• Better prepared to take advantage of FEMA related sources of federal funding
• Other sources of federal funding may be available depending on the type of project and urgency of need
• Opportunity to get familiar with federal contract requirements now to be best prepared to avoid hiccups in the event of an emergency
Contracting Takeaways

1. Develop agreements that comply with federal rules, which apply to FEMA and other sources of federal funding
2. Consult legal counsel and be familiar with the requirements of federal, state, and local contracting requirements to avoid pitfalls

Stephanie and Ann
Local Preparation for Disaster Response & Tips for Setting Up Your Emergency Operations Center
Logistics Organization

• Separate purchasing into two primary activities
  - Hotels, food and perishable
  - Generators, fuel and durable

• Recommended to have a tracking book
  - Document as you go. Collect all appropriate forms/reports of staff activities daily/weekly and reconcile while the primary players are still present.

• Dedicate a Health & Safety Officer to manage EOC staff needs
  - Stress management tools
  - First aid supplies
EOC Procurement Management

• Use 213s to keep detailed records of all procurements
  - Number of vendors called
  - How was the vendor selection
  - Price and cost analysis (in emergency/exigent conditions)
• Do not use Time & Materials contracts; standard bidding process ensures Federal compliance
• Call Cal OES for procurement documentation assistance.
Emergency and Federal Contracts

• Prepare and maintain contracts with appropriate federal language
  - During a disaster, you may be able to expand on existing federal contracts
to deliver emergency services
  - Have boiler plates approved by your agency’s attorney available in EOC
• FEMA acknowledges that you may use the contract provisions from your agency if more restrictive than FEMA’s
• During the declaration of a local emergency by Council include language noting the adoption of rules
• Develop a written standard of conduct
Key Disaster Contracts

- Hazmat
- Fuel
- Janitorial
- Disaster support services
  - Port-o-potties
  - Neoprene gloves
  - N95 or dust masks
  - Booties
- Tower lights and generators
- General contractor
- Debris removal services
- Sandbags, sand and gravel materials
Example 1 – Burned HDPE Storm Drains

• In 2017, a city was able to modify existing general contract with federal language during a proclaimed wildfire event to address emergent issues
  - Burned/melted storm drain pipe
  - Limited timeframe for use
    • Ultimately issued RFB for completion of the work
    • Followed by standard competitive process
    • Used time and materials due to exigency
    • Agreed to same labor and material rates of original contract
Example 2 - Fuel

• Based on the scale of multiple consecutive events, a city learned:
  - It was easier not to have a specific emergency contracts
  - County has precedence within the Operational Area
  - Determined ordering through mutual aid agreement preferable
  - Difficult to determine drop sites
Example 3 – Food Services

• Food needs to be managed by a certified food handler
• Must track all eligible employees
• One city found that food trucks were a key solution
  - No on-site food handler required
  - Ordering based on a total possible head count on a per unit cost
  - Staff must sign-in
  - Ensures proper documentation
Example 4 – Re-Entry / Re-Population

• Developed a list of supply needs
  - Portable lighting
  - Port-o-potties
  - Buckets
  - Gloves
  - Masks

• Printed notices, entry vouchers and risk warnings
Questions and Discussion