VII. RESOURCES
# PROCUREMENT CHECKLIST

This checklist addresses the *Uniform Administrative Requirements* (UAR) for FEMA grants.

## PROJECT TITLE:  
## PROJECT NUMBER:  
## PROJECT DESCRIPTION:  

Document Your FILE OR BE PREPARED to Demonstrate the Following:

<table>
<thead>
<tr>
<th>SOLICITATION</th>
<th>PRE-DECEMBER 26, 2014</th>
<th>POST-DECEMBER 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>❑ Is the solicitation <em>(Request for Proposals (RFP) or Request for Qualifications (RFQ), (advertisement)</em> properly DETAILED in your file?</td>
<td>2 Code of Federal Regulations <em>(CFR)</em> 215.44(e); 44 CFR 13.36(c)(3)(i)(ii)</td>
<td>2 CFR 200.318(h)(ii)</td>
</tr>
<tr>
<td>❑ • Were prospective respondents allowed SUFFICIENT TIME to respond?</td>
<td>44 CFR 13.36(d)(2)(ii)(A)</td>
<td>–</td>
</tr>
<tr>
<td>❑ • Does solicitation contain a clear and accurate description of the TECHNICAL REQUIREMENTS for the material, product or services and scope of work (SOW)?</td>
<td>2 CFR 215.44(a)(3)(i); 44 CFR 13.36(c)(3)(i)</td>
<td>2 CFR 200.319(c)(1)</td>
</tr>
<tr>
<td>❑ • Specifications may not contain features that unduly restrict competition.</td>
<td>2 CFR 215.43; 44 CFR 13.36(c)(3)(i)</td>
<td>2 CFR 200.319(c)(1)</td>
</tr>
<tr>
<td>❑ » Are there unreasonable requirements or unnecessary experience or excessive bonding requirements?</td>
<td>44 CFR 13.36(c)(1)(i-ii)</td>
<td>2 CFR 200.319(a)(1)-(2)</td>
</tr>
<tr>
<td>❑ » Are there any &quot;brand name&quot; products specified without also listing &quot;or equivalent&quot;?</td>
<td>44 CFR 13.36(c)(3)(i)</td>
<td>2 CFR 200.319(c)(1)</td>
</tr>
<tr>
<td>❑ » Does the solicitation file evidence the following:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>❑ ▪ Positive efforts in hiring small-business, minority-owned business or women-owned business enterprises and labor surplus firms to the maximum extent practical?</td>
<td>2 CFR 215.44(b)(1); 44 CFR 13.36(e)</td>
<td>2 CFR 200.321</td>
</tr>
<tr>
<td>❑ ▪ If your Prime Contractor has decided to use a subcontractor, did they take the above affirmative steps?</td>
<td>–</td>
<td>2 CFR 200.321(b)(6)</td>
</tr>
<tr>
<td>❑ Do you have a record OF RESPONDENTS that were rejected as not responsible or not responsive and the reasons for rejection included in your file?</td>
<td>2 CFR 215.44(d); 44 CFR 13.36(b)(8)(9)</td>
<td>2 CFR 200.318(i)</td>
</tr>
<tr>
<td>❑ Are there copies of all proposals, including METHODOLOGY OF EVALUATION and selection process (e.g., bid summary, tabulation sheet, scoring sheet, cost analysis if needed [see COST ANALYSIS REQUIRED section] and recommendation), included in your file?</td>
<td>2 CFR 215.44; 44 CFR 13.36(d)(3)</td>
<td>2 CFR 200.320(d)</td>
</tr>
<tr>
<td>❑ Are there any potential CONFLICTS OF INTEREST?</td>
<td>2 CFR 215.42; 44 CFR 13.36(b)(3)</td>
<td>2 CFR 200.318(c)(1)</td>
</tr>
</tbody>
</table>
## WHAT IS THE METHOD OF PROCUREMENT?

<table>
<thead>
<tr>
<th>Method of Procurement</th>
<th>Pre-December 26, 2014</th>
<th>Post-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement by <strong>micro-purchase</strong>. (less than $3,000)</td>
<td>-</td>
<td>2 CFR 200.320(a)</td>
</tr>
<tr>
<td>Procurement by <strong>small purchase procedures</strong>. (less than or equal to $100,000 / $150,000)</td>
<td>2 CFR 215.44(2); 44 CFR 13.36(d)(1)</td>
<td>2 CFR 200.320(b)</td>
</tr>
<tr>
<td>Procurement by <strong>sealed bids</strong> (preferred method for construction contracts). Contract awarded to the lowest responsive and responsible bidder with a firm fixed price contract (lump sum or unit price).</td>
<td>44 CFR 13.36(d)(2)</td>
<td>2 CFR 200.320(c)</td>
</tr>
<tr>
<td>Procurement by <strong>competitive proposals</strong>.</td>
<td>44 CFR 13.36(d)(3)</td>
<td>2 CFR 200.320(d)</td>
</tr>
<tr>
<td>• If solicitation was for other than &quot;Architectural and Engineering (A + E) professional services&quot;, was <strong>price</strong> included as a selection criteria?</td>
<td>44 CFR 13.36(d)(3)(v)</td>
<td>2 CFR 200.320(d)(4)</td>
</tr>
<tr>
<td>• If solicitation was for A + E services, is a <strong>cost estimate</strong> included in your file?</td>
<td>44 CFR 13.36(d)(3)(v)</td>
<td>2 CFR 200.323(b)</td>
</tr>
<tr>
<td>Procurement by <strong>noncompetitive proposals</strong>.</td>
<td>44 CFR 13.36(d)(4)</td>
<td>2 CFR 200.320(f)</td>
</tr>
<tr>
<td>• Is there a <strong>justification</strong> for the use of this method of procurement included in your file?</td>
<td>2 CFR 215.46(b); 44 CFR 13.36(d)(4)(i)-(iii)</td>
<td>2 CFR 200.318(i); 2 CFR 200.320(f)</td>
</tr>
<tr>
<td>• Are <strong>intergovernmental agreements</strong> and Federal surplus property (if applicable) included in your file?</td>
<td>44 CFR 13.36(b)(5)-(6)</td>
<td>-</td>
</tr>
</tbody>
</table>

## TYPES OF CONTRACTS FOR REIMBURSEMENT

<table>
<thead>
<tr>
<th>Type of Contract</th>
<th>Pre-December 26, 2014</th>
<th>Post-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lump Sum</strong></td>
<td>2 CFR 215.44(c); Public Assistance Guide - FEMA 322 / June 2007, pages 52-53</td>
<td>2 CFR 200.320(c)</td>
</tr>
<tr>
<td><strong>Unit Price</strong></td>
<td>2 CFR 215.44(c); Public Assistance Guide - FEMA 322 / June 2007, pages 52-53</td>
<td>2 CFR 200.320(c)</td>
</tr>
<tr>
<td><strong>Cost Plus a Fixed Fee</strong></td>
<td>2 CFR 215.44(c); Public Assistance Guide - FEMA 322 / June 2007, pages 52-53</td>
<td>2 CFR 200.320 (c)(d)</td>
</tr>
<tr>
<td><strong>Time + Materials (T + M) Contracts</strong> Does it meet all the requirements (see citation)?</td>
<td>44 CFR 13.36(b)(10); Public Assistance Policy Digest - FEMA 321 / January 2008, page 23</td>
<td>2 CFR 200.318(j)</td>
</tr>
<tr>
<td><strong>Intergovernmental Agreements</strong></td>
<td>44 CFR 13.36 (b)(5)</td>
<td>2 CFR 200.318(e)</td>
</tr>
</tbody>
</table>
### Prohibited Contracts

<table>
<thead>
<tr>
<th>Pre-December 26, 2014</th>
<th>Post-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost-Plus-a-Percentage-of-Cost (MUST NOT BE USED).</strong></td>
<td>2 CFR 215.44(c); 44 CFR 13.36(f)(4)</td>
</tr>
<tr>
<td><strong>Cost-Plus-Percentage-of-Construction-Cost (MUST NOT BE USED).</strong></td>
<td>2 CFR 215.44(c); 44 CFR 13.36(f)(4)</td>
</tr>
<tr>
<td><strong>Cost Plus (MUST NOT BE USED).</strong></td>
<td>–</td>
</tr>
</tbody>
</table>

### Bonding Requirements

<table>
<thead>
<tr>
<th>Pre-December 26, 2014</th>
<th>Post-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a construction or facilities improvement Contract that exceeds small purchase threshold? If so:</td>
<td>2 CFR 215.48; 44 CFR 13.36(h)</td>
</tr>
<tr>
<td>• Did the bid response include a five percent (5%) bid bond?</td>
<td>2 CFR 215.48(c)(1); 44 CFR 13.36(h)(1); LA RS 38:2218</td>
</tr>
<tr>
<td>• Did the winning Contractor execute a performance bond for one hundred percent (100%) of the Contract?</td>
<td>2 CFR 215.48(c)(2); 44 CFR 13.36(h)(2); LA RS 38:2219</td>
</tr>
<tr>
<td>• Did the winning Contractor execute a payment bond for one hundred percent (100%) of the Contract?</td>
<td>2 CFR 215.48(c)(3); 44 CFR 13.36(h)(3); LA RS 38:2219</td>
</tr>
</tbody>
</table>

### Required Contract Provisions

<table>
<thead>
<tr>
<th>Pre-December 26, 2014</th>
<th>Post-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>If bonding is required, have copies of the bond(s) been provided with the Contract?</td>
<td>2 CFR 215.48(c); 44 CFR 13.36(h)</td>
</tr>
<tr>
<td>Does the Contract (greater than simplified acquisition threshold) contain a provision for administrative and legal remedies for violation or breach of contract?</td>
<td>2 CFR 215.48(a); 44 CFR 13.36(i)(1)</td>
</tr>
<tr>
<td>Does the Contract (greater than $10,000) contain a provision for termination of Contract for cause and for convenience?</td>
<td>2 CFR 215.48(b); 44 CFR 13.36(i)(2)</td>
</tr>
<tr>
<td>Does the Contract contain a provision to COMPLY with Executive Order (EO) 11246 and 11375, Equal Employment Opportunity (EEO)?</td>
<td>2 CFR 215 Appendix A(1); 44 CFR 13.36(i)(3)</td>
</tr>
<tr>
<td>Does the Contract (applies to all construction or repair Contracts greater than $10,000) contain a provision to comply with the Copeland Anti-Kickback Act?</td>
<td>2 CFR 215 Appendix A(2); 44 CFR 13.36(i)(4)</td>
</tr>
<tr>
<td>Is the Contract required to comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act?</td>
<td>2 CFR 215 Appendix A(4); 44 CFR 13.36(i)(6)</td>
</tr>
<tr>
<td>Does the Contract (applies to Contracts, subcontracts and grants greater than small purchase threshold) contain a provision to comply with Section 306 of the Clean Air Act and Section 508 of the Clean Water Act?</td>
<td>2 CFR 215 Appendix A(6); 44 CFR 13.36(i)(12)</td>
</tr>
<tr>
<td>Does the Contract certify that the Contractor has complied with the Byrd Anti-Lobbying Amendment?</td>
<td>2 CFR 215 Appendix A(7)</td>
</tr>
<tr>
<td>Does the Contract contain a provision stating record retention and access requirements to all records?</td>
<td>2 CFR 215.53; 44 CFR 13.36(i)(10)-(11)</td>
</tr>
<tr>
<td>Question</td>
<td>CFR Reference</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Does the Contract contain a provision that the Contractor agrees to comply with mandatory energy efficiency standards and policies contained within the <em>State Energy Conservation Plan</em>?</td>
<td>2 CFR 215.44(a)(3)(vi); 44 CFR 13.36(x)(13)</td>
</tr>
<tr>
<td>Does the Contract include a declaration by the Contractor stating that it, its principles or affiliates (subcontractors) are currently not disqualified as a result of debarment or suspension?</td>
<td>2 CFR 215 Appendix A(8); 44 CFR 13.35</td>
</tr>
<tr>
<td>Does the Contract include a provision stating the Subrecipient (Applicant) has a responsibility to include required reports (i.e. program performance, financial and progress reports)?</td>
<td>2 CFR 215.51-52; 44 CFR 13.36(i)(7)</td>
</tr>
<tr>
<td>Compliance with the <em>Davis-Bacon Act</em>: There is <strong>NO REQUIREMENT</strong> for such compliance with the FEMA Public Assistance (PA) or Hazard Mitigation (HM) programs.</td>
<td>2 CFR 215 Appendix A (3); 44 CFR 13.36(i)(5); Public Assistance Guide - FEMA 322 / June 2007, page 44</td>
</tr>
</tbody>
</table>

**COST ANALYSIS REQUIRED**

<table>
<thead>
<tr>
<th>Question</th>
<th>Pre-December 26, 2014</th>
<th>POST-December 26, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the Contract a <strong>noncompetitive</strong> proposal?</td>
<td>2 CFR 215.45; 44 CFR 13.36(d)(4)(ii); 44 CFR 13.36(f)</td>
<td>2 CFR 200.323(a)</td>
</tr>
<tr>
<td>Were <strong>additional services</strong> performed by the A/E firm?</td>
<td>2 CFR 215.45; 44 CFR 13.36(f)</td>
<td>2 CFR 200.323(a)</td>
</tr>
<tr>
<td>Did the Contract <strong>Statement of Work</strong> change? Are there <strong>Change Orders</strong>?</td>
<td>2 CFR 215.45; 44 CFR 13.36(f)</td>
<td>2 CFR 200.323(a)</td>
</tr>
</tbody>
</table>
REPORT FRAUD, SCAMS, and ABUSE

Department of Homeland Security Office of the Inspector General:
https://oig.hhs.gov/fraud/report-fraud/
1-800-HHS-TIPS (1-800-447-8477)

Louisiana Office of the Inspector General:
1-866-801-2549
http://oig.louisiana.gov/index.cfm?md=complaint&tmp=complaintform

Louisiana Legislative Auditor:
https://www.lla.la.gov/hotline/
1-844-50-FRAUD

Attorney General Office: Consumer Protection Division
https://www.ag.state.la.us/ConsumerDisputes
1-800-351-4889

Louisiana State Licensing Board for Contractors
1-800-256-1392
https://www.lslbc.louisiana.gov/consumers/complaints/
Or file online complaints@lslbc.louisiana.gov

National Center for Disaster Fraud
1-866-720-5721

And your local law enforcement
PROCUREMENT + CONTRACTING – MORE RESOURCES

There are many procurement resources available to Subrecipients (Applicants). We have listed direct links to Best Practice job aids, materials and policies below:

Job Aids + Materials

- GOHSEP Procurement Videos
gohsep.la.gov/RESOURCES/DATraining

- GOHSEP Job Aids
gohsep.la.gov/RESOURCES/OVERVIEW/PUBLICATIONS

- FEMA Procurement Disaster Assistance Team (PDAT) Materials
  fema.gov/procurement-disaster-assistance-team

- Louisiana Legislative Auditor State Procurement Guidance (Public Bid Law, Public Assistance Grant Program and Louisiana Procurement Code)
  llalao.gov/legal-faqs/all-faqs/

FEMA Policies

- Public Assistance (PA)
fema.gov/public-assistance-policy-and-guidance

- Hazard Mitigation Assistance (HMA)
fema.gov/hazard-mitigation-assistance-grants-policy

Contractor Search Engines

- lslbc.louisiana.gov/contractor-search/
sam.gov

fema.gov/media-library/assets/documents/111781
The policy guide in effect at the time of the disaster is the FEMA policy guide that applies to the grant dollars for the entirety of the grant, regardless of whether FEMA publishes a new guide. Make sure you are looking at the correct policy when working your particular grant.

<table>
<thead>
<tr>
<th>DISASTER NAME</th>
<th>DISASTER NUMBER</th>
<th>DATE DECLARED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PUBLIC ASSISTANCE (PA) PROGRAM + POLICY GUIDE (JANUARY 1, 2018)</strong> (Effective for ALL disasters declared on or after August 25, 2017)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tropical Storm Harvey</td>
<td>DR-4345</td>
<td>10/16/17</td>
</tr>
<tr>
<td>Tropical Storm Nate</td>
<td>EM-3392</td>
<td>10/6/17</td>
</tr>
<tr>
<td><strong>PA PROGRAM + POLICY GUIDE (JANUARY 1, 2016)</strong> (Effective for all disasters declared between January 1, 2016 and March 31, 2017)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Severe Storms + Tornadoes, + Straight-line Winds</td>
<td>DR-4300</td>
<td>2/11/17</td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>DR-4277</td>
<td>8/14/16</td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>DR-4263</td>
<td>3/13/16</td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>EM-3376</td>
<td>2/5/16</td>
</tr>
<tr>
<td><strong>FEMA PA POLICY GUIDE – FEMA 322 + PUBLIC ASSISTANCE 9500 SERIES</strong> (Effective for all disasters declared between January 1, 1998 and December 31, 2015)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>DR-4228</td>
<td>7/13/15</td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>DR-4102</td>
<td>2/22/13</td>
</tr>
<tr>
<td>Hurricane Isaac</td>
<td>DR-4080</td>
<td>8/29/12</td>
</tr>
<tr>
<td>Tropical Storm Lee</td>
<td>DR-4041</td>
<td>10/28/11</td>
</tr>
<tr>
<td>Mississippi River Flooding</td>
<td>DR-4015</td>
<td>8/18/11</td>
</tr>
<tr>
<td>Mississippi River Flooding</td>
<td>EM-3322</td>
<td>5/6/11</td>
</tr>
<tr>
<td>Severe Storms + Tornadoes + Flooding</td>
<td>DR-1863</td>
<td>12/10/09</td>
</tr>
<tr>
<td>Hurricane Ike</td>
<td>DR-1792</td>
<td>9/13/08</td>
</tr>
<tr>
<td>Hurricane Gustav</td>
<td>DR-1786</td>
<td>9/2/08</td>
</tr>
<tr>
<td>Severe Storms + Flooding</td>
<td>DR-1668</td>
<td>11/2/06</td>
</tr>
<tr>
<td>Hurricane Rita</td>
<td>DR-1607</td>
<td>9/24/05</td>
</tr>
<tr>
<td>Hurricane Katrina</td>
<td>DR-1603</td>
<td>8/29/05</td>
</tr>
</tbody>
</table>

*Open disasters as of November 2017.

**There were no Louisiana disasters during the timeframe of PA Program Policy Guide (Version 2) (April 1, 2017 – August 23, 2017).

[SOURCES: louisianapa.com/site/opengrants.cfm + fema.gov/disasters]
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LOCAL OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS (OHSEP) CONTACT INFORMATION

**Region 1**

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Regional map
Checklist for Reviewing Procurements Under Grants
by Non-Federal Entities (States, local and tribal governments, Institutions of Higher Education, Hospitals, and private non-profit organizations) – 2 CFR pt. 200

This checklist was created to assist FEMA recipients and subrecipients in complying with the federal requirements that procurements must meet in order for FEMA to reimburse eligible expenses. Importantly, this checklist is intended to provide general guidance only and does not provide a detailed explanation of the Federal procurement requirements – it is not intended to serve as legal advice and FEMA makes no guarantee that adherence to this checklist will result in full reimbursement of eligible expenses. To understand the requirements fully, the user should review the provisions of 2 C.F.R. § 200.317 – 326, which is the source of these requirements. FEMA's in-depth guidance on these provisions can be found in its Supplement to the Public Assistance Field Manual. In addition, the user may review FEMA's Field Manual, Public Assistance Grantee and Subgrantee Procurement Requirements, which is available on the internet by searching for “FEMA Procurement Field Manual.” While the Field Manual was drafted to specifically address the Federal procurement standards that were in effect prior to 26 December 2014 (44 C.F.R. § 13.36(a)-(i) – States, Local and Tribal Governments; and 2 C.F.R. § 215.40-48 – Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), many of the concepts are similar or identical in substance, and thus remains an excellent tool for navigating the current Federal procurement standards. If any questions arise, please contact your servicing attorney or legal counsel for assistance.

2 C.F.R. § 200.317 – 326 became effective on December 26, 2014. For disasters (and their associated projects) declared prior to that date, the relevant procurement standards can continue to be found in 44 C.F.R. § 13.36(a)-(i) (States, local and tribal governments) and 2 C.F.R. § 215.40-48 (Institutions of Higher Education, Hospitals, and Private Non-Profits).1 As indicated above, while many of the concepts are similar or identical, there are some substantive differences between the old and the new standards. Accordingly, this checklist should not be used for procurements associated with declarations issued prior to 26 December 2014, regardless of project start date. For example, if a disaster was declared on 1 November 2014, but contracting for a project under that declaration did not begin until 1 April 2015, then a State (or state agency/instrumentality) would still utilize the old procurement standards found at 44 C.F.R. § 13.36(a); local and tribal governments would follow § 13.36(b) -(i); and Institutions of Higher Education, Hospitals, and Private Non-Profits would use 2 C.F.R. §§ 215.40-48.

1 This includes projects associated with declarations issued prior to 26 December 2014, regardless of project start date.