

# Procurement ToolBox

Comprehensive guide to getting +  
KEEPING your FEMA grant dollars!

getting it right!



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## FROM THE GOHSEP LEGAL TEAM

October 21, 2015

Dear Procurement Stakeholder,

When a disaster occurs, its magnitude may overwhelm the resources of the State and local entities. Under those circumstances, the President may declare a disaster. With the Presidential Declaration comes **Federal assistance** for the affected areas.

Disaster recovery assistance is available to State agencies, local governments and quasi-government entities, and certain private nonprofit (PNP) organizations (Subrecipients) through grants from the **FEMA Public Assistance (PA)** and **Hazard Mitigation (HM)** grant programs. Federal funding is also available for **disaster preparedness, response** and **recovery education** and **training**.

Federal assistance received for these programs is administered in Louisiana by the **Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)**. A large body of **Federal law, regulation** and **policy** governs the use of grant funds by the Subrecipient (Applicant). Failure to **apply** and properly **follow** these grant requirements may result in the **deobligation** of these funds, calling for the return of funds to FEMA.

The record indicates that the risk is considerable. From **2007-2015**, the **U.S. Department of Homeland Security - Office of the Inspector General (DHS-OIG)** conducted **74 audits** of FEMA grants issued in Louisiana under the PA and HM programs. After adjustments for harmless deobligation values, the audits recommended that **\$1.5 billion** in grant funds be deobligated. **Improper procurement** was one of the major reasons for the recommendations. In some years, improper procurement accounted for **82%** of the **amount recommended** for **deobligation**.

Due to the **complex** rules governing procurement and the **negative financial consequences** of improper procurement practices, GOHSEP has dedicated **significant resources** to conduct **education training programs** to address these **procurement issues**. GOHSEP has complemented its education training programs by producing the **Procurement ToolBox: Comprehensive guide to getting + KEEPING your FEMA grant dollars!**\* – a job aid designed to simplify the procurement process and assist Subrecipients (Applicants) in maintaining **regulatory compliance**. The ToolBox can be downloaded from <http://gohsep.la.gov/RESOURCES/OVERVIEW/PUBLICATIONS>.

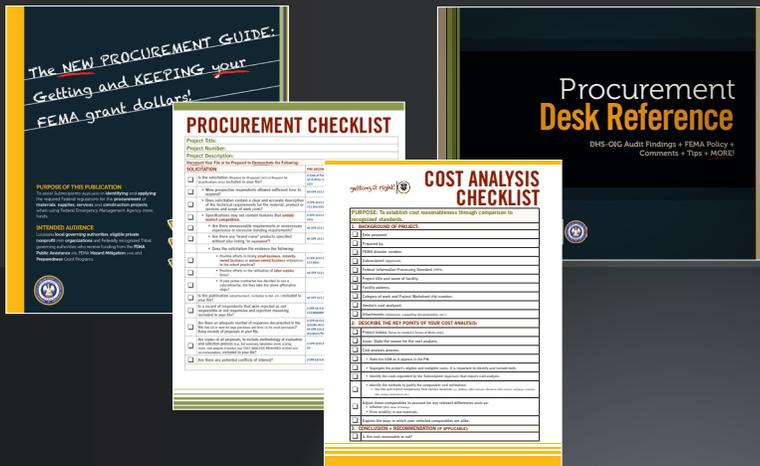
We trust that you will find our training and this ToolBox helpful. Our goal is to assist each Subrecipient (Applicant) in “avoiding your second disaster” and *keeping* every dollar of Federal assistance to which you are entitled. **Should you need assistance do not hesitate to contact us.**

*GOHSEP Legal Team*

\* Based on both formal and informal information, GOHSEP has provided the user with GOHSEP's interpretation of FEMA guidance. Much of the information may be open to more than one interpretation and is meant to provide the user with guidance, source references and a better understanding of Federal procurement requirements.

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## INTRODUCTION

Procurement guidelines can be **confusing**. At times it is difficult to determine what needs to be done to **comply** with procurement regulations. The *Procurement ToolBox: Comprehensive guide to getting + KEEPING your FEMA grant dollars!* (ToolBox) is created to assist the Subrecipient to better understand and apply the regulations. If you procure **goods** and **services** using **Federal funds**, you need this ToolBox.

## SCOPE OF THIS PUBLICATION + DISCLAIMER

This document provides **guidance** on **Federal procurement regulations** as stated in **Code of Federal Regulations (CFR) 44 CFR 13.36** and **2 CFR 200**. The limited space of this brochure does not make it possible to include all of the provisions addressing procurement and its cost principles. It does not and is not designed to address all procurement issues which a Subrecipient (Applicant) may encounter. It is the **Subrecipient's (Applicant's) responsibility** to ensure that Federal regulations are followed in *all* circumstances involving Federal funding.

Please remember that this publication addresses **Federal procurement requirements only**. The use of State and local funds may have **different requirements**. **FEMA requires that the Subrecipient (Applicant) follow the most restrictive process.**

**It is the responsibility of the Subrecipient (Applicant) to be knowledgeable of and to ensure that all Federal regulations are followed.**

## HOW TO USE THIS PUBLICATION

**Do you know what methods of procurement you should use for different kinds of purchases? OR the procurement requirements based on type and size of purchase? OR what types of contracts to use when? OR provisions that MUST be in your contract documents? OR what procedures you are required to have in writing ready for inspection? OR what to do to ensure procured goods and services are cost reasonable? OR for that matter, what "cost reasonable" is?**

This publication addresses *each* of the issues and **more** using *easy-to-read* and follow **charts, checklists** and **Frequently Asked Questions (FAQs)**.

## REFERENCES + CITATIONS

You must know what is required by what **statute** or **regulation**. You will find throughout this ToolBox **source** references to learn more about individual entries.

## LANGUAGE

It is important to know "the language." For example, you will find a list of commonly used acronyms in this ToolBox.

When discussing procurement, you will hear entities referred to as the Grantee OR Recipient or the Applicant OR Subgrantee OR Subrecipient. Here's what you need to know:

**Grantee/Recipient** – Grants are typically awarded to **States** and Federally recognized **Tribal** authorities or Territories. The entity receiving the grant award is called the **Recipient**. You may also hear Recipients referred to as the Grantee. FEMA currently prefers the term Recipient.

**Applicant** – An Applicant is an entity applying for and receiving a **subgrant** through the Grantee.

**Subgrants** – The Recipient or Grantee sometimes awards subgrants to other entities, typically local governing authorities, State agencies, certain private nonprofits (PNPs) or emergency management programs.

**Subrecipient** – Once a subgrant is awarded, the Applicant becomes a Subrecipient. You may hear Subrecipients referred to as Subgrantees. Subgrantee, Subrecipient and Applicant are often used interchangeably. FEMA currently prefers the term Subrecipient.



## PURPOSE OF THIS PUBLICATION

This ToolBox is intended to assist Subrecipients (Applicants) in **identifying** and **applying** the required Federal regulations for the **procurement** of **materials**, **supplies** and **services** when using Federal funds.

## INTENDED AUDIENCE

Intended audiences include Louisiana **local governing authorities**, **eligible private nonprofit (PNP) organizations** and Federally recognized **Tribal** governing authorities who receive funding from the **FEMA Public Assistance (PA)**, **FEMA Hazard Mitigation (HM)** and **Preparedness grant programs**.

To the extent possible, GOHSEP will work with the Subrecipient (Applicant) to resolve any procurement issues. Possible penalties for improper procurement may include:

- Withholding payments
- Suspending grant
- Applying penalties
- Deobligating funds
- Withholding *future* grants
- And MORE!

## AUTHORITIES

There are several governing authorities that regulate the rules of procurement.

- **Law:**
  - *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)*
  - *Disaster Operations Legal Reference, Version 2.0*
- **Regulations:**
  - 44 CFR 13.36 (Common Rule)
  - 2 CFR 215, 220, 225, 230
  - 2 CFR 200
- **Policy**
  - *Disaster Assistance Policy (DAP) 9500 Series*
  - *Public Assistance (PA) Guide FEMA 322/June 2007*
  - *PA Policy Digest FEMA 321/January 2008*
  - *PA Applicant Handbook FEMA 323/March 2010*
  - *Debris Management Guide FEMA 325/July 2007*
  - *Hazard Mitigation Assistance Guidance*
  - *Hazard Mitigation Assistance Guidance Addendum*





## ACRONYMS

|                |  |                     |  |
|----------------|--|---------------------|--|
| <b>A/E</b>     | Architecture and Engineering                                       | <b>LLA</b>          | Louisiana Legislative Auditor  |
| <b>AG</b>      | Attorney General   | <b>LA RS</b>        | Louisiana Revised Statute  |
| <b>BCG</b>     | Baseline Cost Generator  | <b>MBDA</b>         | Minority Business Development Agency                                   |
| <b>CCR</b>     | Central Contractor Registration                                    | <b>NAVD 88</b>      | North American Vertical Datum of 1988                                  |
| <b>CEF</b>     | Cost Estimating Factor   | <b>O + P</b>        | Overhead and Profit  |
| <b>CFDA</b>    | Grant Catalogue of Federal Domestic Assistance                     | <b>OCC</b>          | Office of Chief Council  |
| <b>CFR</b>     | <i>Code of Federal Regulation</i>                                  | <b>OIG</b>          | Office of Inspector General  |
| <b>CPI</b>     | Consumer Price Index   | <b>OMB</b>          | Office of Management and Budget  |
| <b>CSI</b>     | Construction Specification Institute                               | <b>OSP</b>          | Office of State Purchasing   |
| <b>DAP</b>     | <i>Disaster Assistance Policy</i>                                  | <b>PA</b>           | FEMA Public Assistance   |
| <b>DHS</b>     | U.S. Department of Homeland Security                               | <b>PAC</b>          | Public Assistance Coordinator  |
| <b>DHS-OIG</b> | U.S. Department of Homeland Security – Office of Inspector General | <b>PD</b>           | Presidential Declaration   |
| <b>DOC</b>     | U.S. Department of Commerce  | <b>PE</b>           | Professional Engineer  |
| <b>DOLR</b>    | <i>Disaster Operations Legal Reference</i>                         | <b>PNP</b>          | Private Nonprofit  |
| <b>DOTD</b>    | U.S. Department of Transportation and Development                  | <b>PO</b>           | Project Officer  |
| <b>DRS</b>     | Disaster Recovery Specialist                                       | <b>PTAC</b>         | Procurement Technical Assistance Center                                |
| <b>EEO</b>     | Equal Employment Opportunity                                       | <b>PW</b>           | Project Worksheet  |
| <b>EPA</b>     | Environmental Protection Agency                                    | <b>RFC</b>          | Repetitive Flood Claims  |
| <b>EO</b>      | Executive Order  | <b>RFP</b>          | Request for Proposals  |
| <b>FAQ</b>     | Frequently Asked Question  | <b>RFQ</b>          | Request for Qualifications   |
| <b>FAR</b>     | <i>Federal Acquisition Regulation</i>                              | <b>RP</b>           | Recovery Policy  |
| <b>FEMA</b>    | Federal Emergency Management Agency                                | <b>SAL</b>          | State Applicant Liaison  |
| <b>FIPS</b>    | Federal Information Processing Standard                            | <b>SAM</b>          | System for Award Management  |
| <b>FMA</b>     | Flood Mitigation Assistance  | <b>SAT</b>          | Simplified Acquisition Threshold                                       |
| <b>FP + C</b>  | Facility Planning and Control                                      | <b>SBA</b>          | U.S. Small Business Administration                                     |
| <b>GA</b>      | <i>Grant Alert</i>   | <b>SCP</b>          | State Cooperative Purchase   |
| <b>GOHSEP</b>  | Governor’s Office of Homeland Security and Emergency Preparedness  | <b>SOW</b>          | Scope of Work  |
| <b>GPS</b>     | Global Positioning System  | <b>SRIA</b>         | <i>Sandy Recovery Improvement Act of 2013</i>                          |
| <b>GSA</b>     | General Services Administration                                    | <b>SRL</b>          | Severe Repetitive Loss   |
| <b>HM</b>      | FEMA Hazard Mitigation   | <b>Stafford Act</b> | <i>Robert T. Stafford Disaster Relief and Emergency Assistance Act</i> |
| <b>HLS</b>     | Homeland Security  | <b>T + M</b>        | Time and Materials   |
| <b>LAC</b>     | <i>Louisiana Administrative Code</i>                               | <b>USC</b>          | <i>United States Code</i>  |
| <b>LED</b>     | Louisiana Department of Economic Development                       |                     |  |



## REFERENCES

### 42 USC 5189a

[gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap68-subchapIV-sec5189a](http://gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap68-subchapIV-sec5189a)

### 2 CFR 200

[gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-sec200-318.pdf](http://gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-sec200-318.pdf)

### 2 CFR

[www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr225\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr225_main_02.tpl)

### 44 CFR

[gpo.gov/fdsys/pkg/CFR-2014-title44-vol1/content-detail.html](http://gpo.gov/fdsys/pkg/CFR-2014-title44-vol1/content-detail.html)

### Central Contractor Registration (CCR)

[sam.gov/](http://sam.gov/)

### Disaster Operations Legal Reference (DOLR) version 2.0

[fas.org/irp/agency/dhs/fema/dolr.pdf](http://fas.org/irp/agency/dhs/fema/dolr.pdf)

### FEMA 322 — *Public Assistance Guide* – June 2007

[fema.gov/media-library/assets/documents/25651](http://fema.gov/media-library/assets/documents/25651)

### FEMA 9500 Policy Series

[fema.gov/9500-series-policy-publications](http://fema.gov/9500-series-policy-publications)

### FEMA Debris Management Guide

[fema.gov/pdf/government/grant/pa/demagde.pdf](http://fema.gov/pdf/government/grant/pa/demagde.pdf)

### FEMA Fiscal Year 2015 Hazard Mitigation Assistance Guidance and Addendum

[fema.gov/media-library/assets/documents/103279](http://fema.gov/media-library/assets/documents/103279)

### General Services Administration (GSA)

[gsa.gov/portal/category/100000](http://gsa.gov/portal/category/100000)

### Louisiana Department of Economic Development

(LED)

[opportunitylouisiana.com](http://opportunitylouisiana.com)

### Louisiana Economic Development: Small Businesses

[opportunitylouisiana.com/index/small-business](http://opportunitylouisiana.com/index/small-business)

### Louisiana Legislative Auditor (LLA)

[lla.la.gov/legalFAQs](http://lla.la.gov/legalFAQs)

### Louisiana Procurement Technical Assistance Center (PTAC)

[la-ptac.org/homePage.do](http://la-ptac.org/homePage.do)

### Louisiana Revised Statute (LA RS)

[legis.la.gov/Legis/Laws\\_Toc.aspx?folder=75&level=Parent](http://legis.la.gov/Legis/Laws_Toc.aspx?folder=75&level=Parent)

### Public Assistance (PA) Guide – FEMA 322/June 2007

[fema.gov/public-assistance-policy-and-guidance/public-assistance-guide](http://fema.gov/public-assistance-policy-and-guidance/public-assistance-guide)

### Small Business Administration (SBA) Assistance Resources

[sba.gov/tools/local-assistance/LA/local-resources](http://sba.gov/tools/local-assistance/LA/local-resources)

### *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Public Law 93-288) as amended. (Stafford Act)

[fema.gov/media-library/assets/documents/15271](http://fema.gov/media-library/assets/documents/15271)

### U.S. Department of Commerce's Minority Business Development Agency

[mbda.gov](http://mbda.gov)

### Women's Business Centers

[sba.gov/tools/local-assistance/wbc](http://sba.gov/tools/local-assistance/wbc)

### Women's Business Council Gulf Coast

[wbcsouth.org/](http://wbcsouth.org/)

# 1. Procurement Guide

## 1. Procurement GUIDE

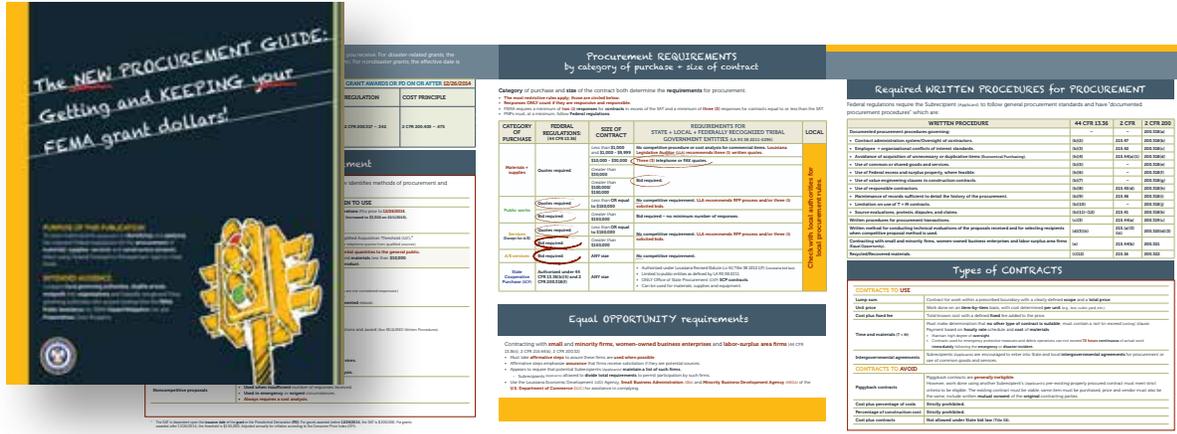
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# The NEW PROCUREMENT GUIDE: Getting and KEEPING your FEMA grant dollars!

A portion of the following information can be found in the The NEW PROCUREMENT GUIDE: Getting and KEEPING your FEMA grant dollars!



## GOVERNING REGULATIONS CHART

Governing regulations for procurement are dependent upon the **type** of grant you receive. For *disaster-related grants*, the *effective date* is dependent on the **issuance** of the **Presidential Declaration (PD)**. For *nondisaster grants*, the effective date is dependent on the **date** the **grant award** is **issued**.

| ENTITY                    | GRANT AWARDS OR PD BEFORE 12/26/2014 |                | GRANT AWARDS OR PD ON OR AFTER 12/26/2014 |                      |
|---------------------------|--------------------------------------|----------------|---|----------------------|
|                           | REGULATION                           | COST PRINCIPLE | REGULATION                                | COST PRINCIPLE       |
| State/local governments   | 44 CFR 13.36                         | 2 CFR 225      | 2 CFR 200.317 – .342                      | 2 CFR 200.400 – .475 |
| Tribal                    | 44 CFR 13.36                         | 2 CFR 225      |   |                      |
| Private nonprofits (PNPs) | 2 CFR 215.40 – .48                   | 2 CFR 230      |   |                      |
| Hospitals                 | 2 CFR 215.40 – .48                   | 2 CFR 230      |   |                      |
| Educational institutions  | 2 CFR 215.40 – .48                   | 2 CFR 220      |   |                      |

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## METHODS OF PROCUREMENT



There are **several** methods for procuring goods and services. The **chart** below identifies methods of procurement and describes when to use **each**.

| METHOD OF PROCUREMENT    | WHEN TO USE   |
|--------------------------|---|
| Micro-purchases          | <ul style="list-style-type: none"> <li>Does not apply to grant awards OR <b>Presidential Declarations</b> (PDs) prior to <b>12/26/2014</b>.</li> <li><b>Applies to</b> purchases <b>less than</b> OR equal to <b>\$3,000</b> (increased to \$3,500 on 10/1/2015).</li> <li><b>No solicitation</b> required.</li> <li>Subrecipient (Applicant) determines <b>reasonableness</b>.</li> </ul>  |
| Small purchases          | <ul style="list-style-type: none"> <li><b>Applies to</b> purchases <b>less than</b> OR equal to the Simplified Acquisition Threshold (SAT).<sup>1</sup></li> <li><b>Only quotes</b> required (a minimum of <b>three [3]</b> written or telephone quotes from qualified sources).</li> </ul>   |
|                          | <ul style="list-style-type: none"> <li><b>Purchases of commercial products sold in substantial quantities to the general public.</b> <ul style="list-style-type: none"> <li><b>Limited</b> by State law to contracts for <b>supplies</b> and <b>materials less than \$10,000</b>.</li> <li>Item must meet the definition of <b>commercial product</b>.</li> </ul> </li> </ul>   |
| Sealed bids              | <ul style="list-style-type: none"> <li>Preferred for <b>construction</b>.</li> <li><b>Fixed price</b>.</li> <li>Publicly <b>advertised</b> and publicly <b>opened</b>.</li> <li><b>Two (2)</b> or more <b>responsive</b> bidders. (Rejected bidders are not considered responsive.)</li> <li>Awarded to <b>lowest, responsive, responsible</b> bidder.</li> <li>Any OR all bids may be <b>rejected</b> for a sound, <b>documented</b> reason.</li> </ul>  |
| Competitive proposals    | <p><b>General</b></p> <ul style="list-style-type: none"> <li>Must have more than <b>one (1) responsible</b> bidder.</li> <li>Must be <b>publicized</b> to <b>maximum</b> extent practical.</li> <li>Must have <b>written</b> procedure for conducting evaluations and award (See <i>REQUIRED Written Procedures</i>).</li> </ul> <p><b>Request for Proposals (RFP)</b></p> <ul style="list-style-type: none"> <li><b>Price</b> a criteria for selection.</li> <li>Contract awarded to firm offering <b>best value</b>.</li> </ul> <p><b>Request for Qualifications (RFQ)</b></p> <ul style="list-style-type: none"> <li><b>Limited to Architecture and Engineering (A/E) services</b>.</li> <li><b>Qualifications only</b> criteria selection.</li> <li>Price negotiated <b>after</b> selection based on <b>cost analysis</b>.</li> </ul> |
| Noncompetitive proposals | <ul style="list-style-type: none"> <li>Available <b>only</b> from a <b>single source</b>.</li> <li><b>Used when insufficient</b> number of responses received.</li> <li><b>Used in emergency</b> or <b>exigent</b> circumstances.</li> <li><b>Always requires a cost analysis</b>.</li> </ul>   |

<sup>1</sup> The threshold is dependent upon the **date of issuance** of the **grant** or the **Presidential Declaration (PD)**. For grants awarded *before 12/26/2014*, the SAT is \$100,000. For grants awarded *after 12/26/2014*, the threshold is \$150,000. Adjusted annually for inflation according to the Consumer Price Index (CPI).

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# PROCUREMENT REQUIREMENTS BY CATEGORY OF PURCHASE + SIZE OF CONTRACT



Category of purchase and size of the contract both determine the requirements for procurement.

- **The most restrictive rules apply; those are circled below.**
- **Responses ONLY count if they are responsive and responsible.**
- FEMA requires a *minimum* of **two (2)** responses for contracts in *excess* of the SAT and a *minimum* of **three (3)** responses for contracts *equal* to or *less* than the SAT.
- PNPs must, at a *minimum*, follow **Federal regulations.**

| CATEGORY OF PURCHASE             | FEDERAL REGULATIONS: (44 CFR 13.36)                      | SIZE OF CONTRACT                        | REQUIREMENTS FOR STATE + LOCAL + FEDERALLY RECOGNIZED TRIBAL GOVERNMENT ENTITIES (LOUISIANA REVISED STATUTE [LA RS] 38:2211-2296)  | LOCAL  |
|----------------------------------|--|---|--|--|
| Materials + supplies             | Quotes required  | Less than \$1,000 and \$1,000 - \$9,999 | No competitive procedure or cost analysis for commercial items. <b>Louisiana Legislative Auditor (LLA) recommends three (3) written quotes.</b>  | <b>CHECK WITH LOCAL AUTHORITIES FOR LOCAL PROCUREMENT RULES.</b> |
|                                  |  | \$10,000 - \$30,000                     | <b>Three (3) telephone or FAX quotes.</b>  |  |
|                                  |  | Greater than \$30,000                   |  |  |
|                                  |  | Greater than \$100,000/ \$150,000       | <b>Bid required.</b>   |  |
| Public works                     | <b>Quotes required</b>                                   | Less than OR equal to \$150,000         | No competitive requirement. <b>LLA recommends RFP process and/or three (3) solicited bids.</b>   |  |
|                                  | <b>Bid required</b>                                      | Greater than \$150,000                  | Bid required – <u>no</u> minimum number of responses.  |  |
| Services (Except for A/E)        | <b>Quotes required</b>                                   | Less than OR equal to \$150,000         | No competitive requirement. <b>LLA recommends RFP process and/or three (3) solicited bids.</b>   |  |
|                                  | <b>Bid required</b>                                      | Greater than \$150,000                  |  |  |
| A/E services                     | <b>Bid required</b>                                      | ANY size                                | No competitive requirement.  |  |
| State Cooperative Purchase (SCP) | Authorized under 44 CFR 13.36(b)(5) and 2 CFR 200.318(e) | ANY size                                | <ul style="list-style-type: none"> <li>• Authorized under <b>LA RS</b> Title 38:2212.1(F) (Louisiana bid law).</li> <li>• <i>Limited</i> to public entities as defined by <b>LA RS</b> 38:2211.</li> <li>• ONLY Office of State Procurement (OSP) <b>SCP contracts.</b></li> <li>• Can be used for materials, supplies and equipment.</li> </ul> |  |



## EQUAL OPPORTUNITY REQUIREMENTS

Contracting with **small** and **minority firms**, **women-owned business enterprises** and **labor-surplus area firms** [44 CFR 13.36(i); 2 CFR 215.44(b); 2 CFR 200.32]

- Must take **affirmative steps** to assure these firms are **used when possible**.
- Affirmative steps emphasize **assurance** that firms receive solicitation if they are potential sources.
- Appears to require that potential Subrecipients (Applicants) **maintain a list of such firms**.
  - Subrecipients (Applicants) allowed to **divide total requirements** to permit participation by such firms.
- Use the Louisiana Economic Development (LED) Agency, **Small Business Administration (SBA)** and **Minority Business Development Agency (MBDA)** of the **U.S. Department of Commerce (DOC)** for assistance in complying.



## REQUIRED WRITTEN PROCEDURES FOR PROCUREMENT

Federal regulations **require** the Subrecipient (Applicant) to follow general procurement standards and have “documented procurement procedures” which are:

| WRITTEN PROCEDURES   | GRANT AWARDS OR PD <i>BEFORE</i><br>12/26/2014 |                   | GRANT AWARDS OR PD ON<br>OR <i>AFTER</i> 12/26/2014 |
|--|--|-------------------|---|
|  | 44 CFR<br>13.36                                | 2 CFR             | 2 CFR 200   |
| <b>Contract Administration/Oversight</b>   | (b)(2)   | 215.47            | 200.318   |
| • Employee + organizational conflicts of interest standards                            | (b)(3)   | 215.42            | 200.318(c)  |
| • Avoiding acquisition of unnecessary or duplicative items                             | (b)(4)   | 215.44(a)(1)      | 200.318(d)  |
| • Granting awards to responsible contractors   | (b)(8)   | 215.45(d)         | 200.318(h)  |
| • Maintaining records to detail history of the procurement                             | (b)(9)   | 215.46            | 200.318(i)  |
| • Use of time and material (T + M) contracts   | (b)(10)  | –                 | 200.318(j)  |
| • Protest procedures   | (b)(11)-(12)                                   | 215.41            | 200.318(k)  |
| • Selection procedures for procurement transactions                                    | (c)(3)   | 215.44(a)         | 200.319(c)  |
| • Methods for conducting technical evaluations   | (d)(3)(ii)                                     | 215.44(a)(3)(iii) | 200.320(d)(3)                                       |
| <b>Utilizing small businesses, minority owned firms and women business enterprises</b> | (e)  | 215.44(b)         | 200.321   |
| <b>Procurement of recovered materials</b>  | (i)(12)  | 215.16            | 200.322   |

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## TYPES OF CONTRACTS

| CONTRACTS TO <b>USE</b>                |  |
|--|--|
| <b>Lump sum</b>                        | Contract for work within a prescribed boundary with a <i>clearly</i> defined <b>scope</b> and a <b>total price</b> .   |
| <b>Unit price</b>                      | Work done on an <b>item-by-item</b> basis, with cost determined <b>per unit</b> (e.g., box, cubic yard, etc.).   |
| <b>Cost plus fixed fee</b>             | Total known cost with a defined <b>fixed</b> fee <i>added</i> to the price.  |
| <b>Time and Materials (T + M)</b>      | <p>Must make determination that <b>no other type of contract is suitable</b>; must contain a <i>not-to exceed</i> (ceiling) clause. Payment based on <b>hourly rate</b> schedule and <b>cost of materials</b>.</p> <ul style="list-style-type: none"> <li>• Maintain <i>high</i> degree of <b>oversight</b>.</li> <li>• Contracts used for emergency protective measures and debris operations <b>can not</b> exceed <b>70 hours continuous</b> of actual work <b>immediately</b> following the <b>emergency</b> or <b>disaster incident</b>.</li> </ul> |
| <b>Intergovernmental agreements</b>    | Subrecipients (Applicants) are <i>encouraged</i> to enter into State and local <b>intergovernmental agreements</b> for procurement or use of common goods and services.  |
| CONTRACTS TO <b>AVOID</b>              |  |
| <b>Piggyback</b>                       | <p>Piggybacks are <b>generally ineligible</b>.</p> <p>However, work done using another Subrecipient's (Applicant's) <i>pre-existing</i> properly procured contract must meet <b>strict criteria</b> to be eligible. The existing contract must be <b>viable</b>, <b>same item</b> must be purchased; <b>price</b> and <b>vendor</b> must also be the same; include <b>written mutual consent</b> of the <b>original</b> contracting parties.</p>   |
| <b>Cost-plus-percentage-of-costs</b>   | Strictly prohibited.   |
| <b>Percentage-of-construction-cost</b> | Strictly prohibited.   |
| <b>Cost plus</b>                       | <b>Not allowed under State bid law</b> (LA RS Title 38).   |

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## REQUIRED CONTRACT PROVISIONS



Governing regulations for procurement are dependent upon the **type** of grant you receive. For *disaster-related grants*, the effective date is dependent on the **issuance** of the Presidential Declaration (PD). For *nondisaster grants*, the effective date is dependent on the **date the grant award is issued**.

When applicable, contracts are **required** to include certain provisions as stated **below**:

| CONTRACT PROVISION   | CFR   |                   |  | APPLICATION  |
|--|---|-------------------|--|--|
|  | GRANT AWARDS OR PD <i>BEFORE</i> 12/26/2014 |                   | GRANT AWARDS OR PD ON OR <i>AFTER</i> 12/26/2014 |  |
|  | 44 CFR                                      | 2 CFR             | 2 CFR 200  |  |
| <b>Bonding requirements</b>  | 13.36(h)                                    | 215.48(c)         | 200.325  | Contracts for construction or facilities improvement in excess of the <b>simplified acquisition</b> threshold (SAT). The bonding requirements include: <b>bid guarantee</b> , <b>performance bond</b> and <b>payment bond</b> .  |
| <b>Administrative and legal remedies for violation or breach of contract</b>       | 13.36(i)(1)                                 | 215.48(a)         | Appendix II(A)                                   | All contracts <i>greater</i> than the SAT.   |
| <b>Termination for cause and convenience</b>                                       | 13.36(i)(2)                                 | 215.48(b)         | Appendix II(B)                                   | Applies to all contracts in excess of <b>\$10,000</b> .  |
| <b>Executive Orders (EOs) 11246 and 11375 "Equal Employment Opportunity (EEO)"</b> | 13.36(i)(3)                                 | -                 | -  | All construction contracts awarded in excess <b>\$10,000</b> .   |
|  | -   | 215 Appendix A(1) | -  | <b>All contracts</b> .   |
|  | -   | -                 | Appendix II(I)                                   | All <b>construction</b> contracts.   |
| <b>Copeland Anti-Kickback Act</b>  | 13.36(i)(4)                                 | -                 | Appendix II(E)                                   | All <b>construction</b> or <b>repair</b> contracts.  |
|  | -   | 215 Appendix A(2) | Appendix II(D)                                   | All <b>construction</b> or <b>repair</b> contracts in excess of <b>\$2,000</b> .   |
| <b>Davis-Bacon Act</b>   | 13.36(i)(5)                                 | 215 Appendix A(3) | Appendix II(D)                                   | Although listed as a required contract provision in all of the CFRs, the <i>Robert T. Stafford Disaster Relief and Emergency Assistance Act</i> (Stafford Act) <b>DOES NOT</b> require compliance with this Act and therefore <b>no clause is required</b> (Office of Chief Council [OCC] <i>Public Assistance [PA] Field Manual</i> , page 90; <i>Public Assistance Guide</i> , FEMA 322/July 2007, page 44). May be required by other FEMA grants. |



## REQUIRED CONTRACT PROVISIONS (CONTINUED . . .)

| CONTRACT PROVISION   | CFR  |                      |   | APPLICATION   |
|--|--|----------------------|---|---|
|  | GRANT AWARDS OR PD <i>BEFORE</i><br>12/26/2014 |                      | GRANT AWARDS OR PD ON OR <i>AFTER</i><br>12/26/2014 |   |
|  | 44 CFR   | 2 CFR                | 2 CFR 200   |   |
| <b>Contract Work Hours and Safety Standards Act</b>  | 13.36(i)(6)                                    | 215 Appendix A(4)    | -   | Construction contracts <i>greater than \$2,000</i> and for other contracts <i>greater than \$2,500</i> where mechanics and laborers are employed.   |
|  | -  | -                    | Appendix II(E)                                      | All <b>construction</b> contracts <i>greater than \$100,000</i> where <b>mechanics</b> and <b>laborers</b> are employed.  |
| <b>Compliance with reporting requirements</b>  | 13.36(i)(7)                                    | 215.50               | 200.327 – .329                                      | Contracts/grants <b>must</b> include the Subrecipient (Applicant) responsibility to provide the <b>required reports</b> , i.e. program performance, financial and progress reports.   |
| <b>Compliance with regulations pertaining to patent rights (inventions), copyrights and rights in data</b> | 13.36(i)(8)(9)                                 | 215.36 Appendix A(5) | Appendix II(F)                                      | The PA Program <b>does not authorize</b> any experimental, developmental or research work that would give rise to patents, inventions, copyrights or data. Therefore, there is <b>NO REQUIREMENT</b> for such clauses ( <i>OCC PA Field Manual page 94</i> ).   |
| <b>Clean Air Act and Clean Water Act</b>   | 13.36(i)(12)                                   | 215 Appendix A(6)    | -   | Applies to <b>all contracts greater than or equal to \$100,000</b> .  |
|  | -  | -                    | Appendix II(G)                                      | Applies to <b>all contracts greater than or equal to \$150,000</b> .  |
| <b>Byrd Anti-Lobbying Amendment</b>  | -  | 215 Appendix A(7)    | Appendix II(J)                                      | Contractors that apply or bid for a contract must <b>certify</b> that it will not and has not used <b>any</b> Federal funds to <b>influence</b> an employee or member of Congress in obtaining any federal award.   |
| <b>Access to records</b>   | 13.36(i)(10)                                   | 215.53               | DHS <i>Grant Alert</i> 15-05 paragraph XXXIII(2)    | Allows the Federal government, the Recipient (Grantee) or Subrecipient (Applicant) access to a contractor's <b>records</b> . Subrecipient (Applicant) must include provision in contract stating this requirement by the contractor.  |
| <b>Retention of records</b>  | 13.36(i)(11)                                   | 215.53               | 200.333   | Where applicable, contract clause <b>requiring</b> the Subrecipient (Applicant) to <b>retain all</b> records for <b>three (3) years</b> from the date of <b>final expenditure report</b> and a contractor to retain records for <b>three (3) years after the termination</b> date of the contract ( <i>occ PA Field Manual page 95 referring to responsibility of contractor</i> ). |



REQUIRED CONTRACT PROVISIONS (CONTINUED . . .)

| CONTRACT PROVISION                              | CFR  |                   |   | APPLICATION   |
|---|--|-------------------|---|---|
|   | GRANT AWARDS OR PD <i>BEFORE</i><br>12/26/2014 |                   | GRANT AWARDS OR PD ON OR <i>AFTER</i><br>12/26/2014 |   |
|   | 44 CFR   | 2 CFR             | 2 CFR 200   |   |
| <b>Energy efficiency</b>                        | 13.36(i)<br>(13)                               | 215.44(1)(3)(vi)  | Appendix II(H)                                      | Contractor agrees to comply with <b>mandatory standards</b> and <b>policies</b> relating to energy efficiency which are contained in the state energy conservation plan (LA RS 40:1730.49).   |
| <b>Awards to debarred and suspended parties</b> | 13.35  | 215 Appendix A(8) | Appendix II(I)                                      | Subrecipient (Applicant) must require and contractor must make a <b>declaration</b> that the contractor, its principles or affiliates (subcontractors), are currently <b>not disqualified</b> as a result of debarment or suspension. |
| <b>Procurement of recovered materials</b>       | 13.36(i)<br>(12)                               | 215.16            | Appendix II(J)<br>See 200.322                       | Applies to State and local government entities and their <b>contractors</b> .   |

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# 2. Procurement

# checklist

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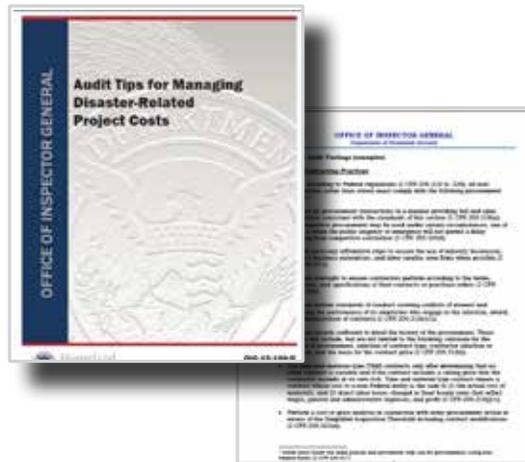
# BEST PRACTICES FOR PROCUREMENT

## DEPARTMENT OF HOMELAND SECURITY – OFFICE OF INSPECTOR GENERAL (DHS-OIG)



According to Federal regulations [2 CFR 200.318 - 326], all **non-Federal entities** (other than States) must comply with the following procurement standards:<sup>2</sup>

- Conduct all procurement transactions in a manner providing **full** and **open competition** with the standards of this section [2 CFR 200.319(a)]. **Noncompetitive** procurement may be used under *certain circumstances*, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation [2 CFR 200.320(f)].
- Take all necessary **affirmative steps** to *assure* the use of **minority businesses, women-owned business enterprises** and **labor-surplus** area firms when possible [2 CFR 200.321].
- Maintain **oversight** to *ensure* contractors perform according to the **terms, conditions** and **specifications** of their contracts or purchase orders [2 CFR 200.318(b)].
- Maintain **written standards of conduct** covering conflicts of interest and governing the performance of its employees who engage in the selection, award and administration of contracts [2 CFR 200.318(c)(1)].
- Maintain **records** sufficient to detail the history of the procurement. These records will include, but are not limited to the following: rationale for the **method of procurement**, selection of **contract type**, **contractor** selection or **rejection**, and the basis for the **contract price** [2 CFR 200.318(i)].
- Use **time and material (T + M) type** contracts *only* after determining that no other contract is **suitable** and if the contract includes a **ceiling price** that the contractor *exceeds* at its own risk. T + M type contract means a contract whose cost to a non-Federal entity is the sum of (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit [2 CFR 200.318(j)(1)].
- Perform a **cost** or **price analysis** in connection with **every procurement** action in excess of the Simplified Acquisition Threshold (SAT) *including* contract modifications [2 CFR 200.323(a)].
- Negotiate **profit** as a **separate element** of the price for *each* contract in which there is no price competition and in all cases where cost analysis is performed [2 CFR 200.323(b)].
- Do **not** use **cost plus a percentage of cost** and **percentage-of-construction-cost** methods of contracting [2 CFR 200.323(d)].
- Include **required provisions** in *all* contracts awarded [2 CFR 200.326].



DHS-OIG **AUDIT TIPS FOR MANAGING DISASTER-RELATED PROJECT COSTS – OIG-15-100-D – JUNE 8, 2015**, FOUND IN THE APPENDIX SECTION OF THIS TOOLBOX, CAN BE DOWNLOADED AT: [OIG.DHS.GOV/ASSETS/GRANTREPORTS/2015/OIG\\_15-100-D\\_JUN15.PDF](http://OIG.DHS.GOV/ASSETS/GRANTREPORTS/2015/OIG_15-100-D_JUN15.PDF)

<sup>2</sup> States must follow the same policies and procedures they use for procurements using non-Federal funds [2 CFR 200.317].







# 3. Procurement

# Cost Analysis

## 3. Procurement COST ANALYSIS

- Cost Analysis Checklist 23
- Tips + Other Resources for Cost Analysis 25
- Sample Cost Analysis Templates 25

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## TIPS + OTHER RESOURCES FOR COST ANALYSIS

Below is a listing of **Cost Analysis** sources and methods, which can assist in proving that the cost for **noncompetitive procurement** for services received or goods purchased are reasonable:

- **National retailers/Material purchase catalogs** – **Lowe's, Home Depot, Walmart, Office Depot**, etc. - Check their circulars, websites or catalogs for the item that you purchased and **compare** to the price you paid for the item.
- **Internet searches** – “Google” the exact item you purchased and provide **at least two print-outs** which show the price you were charged is comparable to other prices on the internet for that item.
- **State contracts and travel guide** – [doa.louisiana.gov/osp](http://doa.louisiana.gov/osp) - State contracts are properly procured and then entered into **yearly** for purchases of certain items which the State anticipates they may need to purchase in the upcoming year. In this site, you can look for the item you purchased and **compare** the price you paid to the approved price on State Contract.
- **General Services Administration (GSA) rates & contracts** – [GSA.gov](http://GSA.gov) – Contains pricing for **services, hourly rates** and purchases of **common items**. Provide **print-outs** of the cost for your item or service per GSA.
- **FEMA equipment cost codes** – [fema.gov](http://fema.gov) – FEMA Cost Codes can be used to demonstrate the price that you paid for **utilizing** one of your pieces of equipment.
- **EIA.gov for historical gas & diesel pricing** – [eia.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_nus\\_w](http://eia.gov/dnav/pet/pet_pri_gnd_dcus_nus_w) – Contains pricing on **gas** and **diesel** for current and previous years.
- **RSMMeans, Cost Works, Exactimate** – [RSMMeans.com](http://RSMMeans.com), [CostWorks.com](http://CostWorks.com), [Exactimate.com](http://Exactimate.com) – These programs may require a purchasing fee and specific knowledge of its use, but they are good tools for **demonstrating estimations** of construction jobs and therefore proving reasonable cost.
- **A/E FEMA cost curves** – *FEMA Public Assistance Guide* Publication 322, June 2007– pages 58 & 60 – Either of **two cost curves**, dependent upon job complexity can be used to analyze reasonable cost of architectural and engineering fees as compared to the construction value.
- **Facility Planning and Control (FP + C) schedule** – [doa.louisiana.gov/fpc](http://doa.louisiana.gov/fpc) – for current and historical **Building Cost Index** and **Consumer Price Index** schedules to analyze A/E fees as compared to construction costs.
- **Obtain price quotes** – “Google” or use the **phone book** – **call** or **email** vendors, preferably in your area, and describe the item you purchased or the service you had performed. Provide as much **description** as possible. Ask them to provide you with an **estimate** for that item or service. **Document** the results.
- **FEMA estimates** – FEMA Project Worksheet (PW) – FEMA will occasionally use **RSMMeans**, a **Cost Estimating Factor** (CEF), or a **Baseline Cost Generator** (BCG) to estimate the value of work when a PW is written. The Subrecipient (Applicant) may use this information, but must perform an **independent Cost Analysis**.
- **Historical data** – **Past invoices** – Provide proof of previous purchases (prior to the disaster for which you’re currently claiming reimbursement of costs) of the same item, or provide proof of previous rates you were charged for the same service. The previously purchased item and service must be **identical** to the item or service that you are currently comparing to.
- **Phone a friend** – **Neighboring towns/Parishes, school districts, fire departments**, etc. – Your neighbors may have recently purchased the item or service which you are trying to determine reasonable cost and may be willing to **share** their prices charged with you so that you can use them as a comparison.
- **Call your resources** – **Contractors, A/E firms, GOHSEP DRS, GOHSEP SAL, FEMA Project Officer (PO)/Public Assistance Coordinator (PAC)** – These individuals may provide you with an **estimate** of what the item you purchased or services you entered into should have cost. GOHSEP and FEMA personnel may be aware of other purchases or contracts within the PA Program which you can then compare to your price.
- The Cost Analysis must compare the **price** it would have been in the **year** in which you **purchased** it or **entered** into contract.
- **Consumer Price Index (CPI) inflation** – [bls.gov/data/inflation\\_calculator](http://bls.gov/data/inflation_calculator) – CPI factor can be applied to **rates** so as to ‘roll-back’ or ‘roll-forward’ a price. This is helpful when comparing price information across several years’ time span.

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## SAMPLE COST ANALYSIS TEMPLATES

The following templates are not a specific format for **Cost Analysis**. The SAMPLE templates are offered as a **best practice** example. These are **not comprehensive**.

### TEMPLATE 1: EXAMPLE FOR COST OF LABOR + EQUIPMENT

|   |                          |
|---|--------------------------|
| <b>Date Prepared:</b>                       | mm/dd/yy                 |
| <b>Prepared By:</b>                         | GOHSEP Technical Team    |
| <b>FEMA Disaster No.:</b>                   | # and name               |
| <b>Subrecipient (Applicant):</b>            | The Parish               |
| <b>FIPS:</b>                                | 123-456789-00            |
| <b>Project Title/Facility:</b>              | Various Parish buildings |
| <b>Facility Address:</b>                    | Various locations        |
| <b>Category of Work &amp; PW Number(s):</b> | Cat B, PW#1234           |
| <b>Cost Analyzed:</b>                       | \$16,125.00              |
| <b>Purpose:</b>                             | Cost reasonableness      |
| <b>Attachment(s):</b>                       | Attachment 1             |

#### Procurement Background

Hurricane XXXX delivered very high wind velocities and heavy flooding throughout The Parish. The Parish lost electrical service to several buildings. It was necessary for The Parish to maintain fully operational capacity for the protection, public safety and health of the population of The Parish. To facilitate essential services, The Parish contracted with The Vendor to energize emergency power generators.

Due to the resulting damage caused by Hurricane XXXX, namely the lack of electrical power, The Parish contracted with The Vendor to supply labor and the necessary equipment to connect and disconnect numerous generators to various building at several locations throughout the Parish.

The public exigency or emergency for the requirement did not permit a delay resulting from competitive solicitation and as such The Parish entered into a noncompetitive procurement, according to 2 Code of Federal Regulations (CFR) 320(f)(4) (Procurement by Noncompetitive Proposals).

#### Cost Analysis

- Develop a detailed list of tasks and subtasks, based on the services requested in the RFP/RFQ.
- Estimate the number of hours needed to complete each task and divide among staff with a variety of hourly rates.
- Estimate materials, supplies, services or other direct costs to complete each task.
- Apply overhead rate if applicable to appropriate cost base for each task.
- Apply profit rate if applicable to appropriate base for each task.
- Sum all the elements of cost and profit for the task.

A comparative cost analysis was prepared based on RSMeans Commercial New Construction 1st, 2nd, 3rd or 4th Quarter 20XX (as appropriate) which was been adjusted to the City index code location using non-union open shop rates (or union rates if stated in contract) and RSMeans Crew 20XX Open-Shop. The 20XX pricing was adjusted by using the United States Department of Labor, Bureau of Labor Statistics CPI (Consumer Price Index)/RSMeans Historical Cost Index (as the case may be) inflation calculation factor to reflect the 20XX value.





## SAMPLE COST ANALYSIS TEMPLATES (CONTINUED . . .)

The following templates are not a specific format for **Cost Analysis**. The SAMPLE templates are offered as a **best practice** example. These are **not comprehensive**.

### TEMPLATE 2: EXAMPLE OF ONLINE QUOTE COMPARISON SAMPLE

|              |  |
|--------------|--|
| <b>To:</b>   | GOHSEP   |
| <b>From:</b> | Mr. Purchasing Agent, Big Parish   |
| <b>Date:</b> | April 13, 2015   |
| <b>RE:</b>   | Cost Reasonableness for Flood Control Measures, Big Parish PW #1234, Hurricane Vic |

During the emergency period for Hurricane Vic, to protect homes and business from rising storm surge, I contacted Tiger Dams R Us on July 28, 2007, to rent an inflatable levee system. Without obtaining these items, thousands of homes would have suffered from massive flooding.

The price I was quoted was \$350.00 per day for x size tiger dams. I opted to rent the inflatable levee system with x size tiger dams for that price. A copy of the invoice has been attached to this memo for your review.

Prior to Hurricane Vic, in 2004 during Hurricane Taz, we had also rented x same size tiger dams from this same vendor at the rate of \$350.00 per day. Please find attached to this memo a copy of the invoice from that occurrence.

On today, January 4, 2015, I got a quote via the internet from another vendor, Inflatable Levees R Us, for the same x size tiger dams and their rate is \$365.00 per day. Attached to this memo is a copy of that internet search for your review. Considering inflation, the additional \$15.00/day is not considered excessive. This can be verified by adding the CPI to the price 2007 price. X CPI times \$350.00 over 8 years leads to Y new price (Someone should fill in the correct numbers here before release).

#### Price Comparison

The below chart is a recap of the price comparison which we performed:

| Cost Comparison for x size Tiger Dam rental |                       |                              |
|---|-----------------------|------------------------------|
| 2004, Tiger Dams R Us                       | 2007, Tiger Dams R Us | 2015, Inflatable Levees R Us |
| \$350.00/day                                | \$350.00/day          | \$365.00/day                 |

#### Additional Comments

Tiger Dams R US was the only vendor who could meet our urgent need and time line during the rising storm surge of Hurricane Vic in 2007. Additionally, and moreover, the price that they charged Big Parish during Hurricane Vic has been proven to be reasonable based on the above comparisons. Therefore, please accept this Memo as demonstrating cost reasonableness for the \$350.00/day tiger dams that we rented during the emergency period of Hurricane Vic.

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## SAMPLE COST ANALYSIS TEMPLATES (CONTINUED . . .)

The following templates are not a specific format for **Cost Analysis**. The SAMPLE templates are offered as a **best practice** example. These are **not comprehensive**.

### TEMPLATE 3: EXAMPLE OF A/E SERVICES ADDITIONAL TO FEE CURVE

**Costs Analysis:**

|  |  |
|--|--|
| <b>Date Prepared:</b>                  | mm/dd/yy   |
| <b>Prepared By:</b>                    | Owner  |
| <b>FEMA Disaster No.:</b>              | DR1603 – LA Hurricane Katrina  |
| <b>Subrecipient (Applicant):</b>       | Owner  |
| <b>FIPS:</b>                           | 999-9999-999   |
| <b>Project Title/Facility:</b>         | Town of Owner– Soil Boring and geotechnical study                    |
| <b>Facility Address:</b>               | Various locations  |
| <b>Category of Work + PW Number(s)</b> | 9999, 9999, 9999   |
| <b>Analyzed:</b>                       | Cost for Soil Boring and geotechnical study                          |
| <b>Purpose:</b>                        | Determine cost reasonableness for soil boring invoiced by contractor |
| <b>Attachment(s):</b>                  | 1. Contract Amendment<br>2. Invoice                                  |

**Project History:**

On 29 August 2005, high winds, heavy rains and a storm surge from Hurricane Katrina caused damages to the town of Owner’s drainage pumping system. The entire system was submerged in saltwater. The system consists of 10 pump stations with electric pumps mounted on platforms.

To facilitate the repair, the Owner contracted with Name of Engineering Firm to provide preliminary engineering analyses and design, final design, and construction inspection and administration for all 10 pump stations. The scope of work as part of the Hazard Mitigation effort was to elevate the equipment platforms by an additional five (5) feet. The new platforms were constructed using pilings which depend on the soil properties underneath. In order to select pile diameter and maintain adequate pile bearing capacities, a soil investigation was necessary for each proposed equipment platform. The Name of Engineering Firm sub-contracted with Name of Sub-contracted Specialty Firm to provide these additional services. Geotechnical services consists of soil test borings, laboratory testing, engineering analyses and reporting. The sub-contractor provided soil testing services at a Fixed Price of \$3,500.00 per site totaling \$35,000.00 for 10 sites.

**Issues:**

After Hurricane Katrina, the Owner engaged the services of Name of Engineering Firm to assess damages and provide technical assistance and project management. The Name of Engineering Firm secured a sub-contract from Name of Sub-contracted Specialty Firm to provide additional specialty services. Therefore a cost analysis is necessary to show cost reasonableness. Note that a cost analysis performed on mm/dd/yyyy showed that the cost for basic engineering services provided by Name of Engineering Firm was reasonable based on FEMA cost curves for A/E services.



**Cost Analysis:**

Soil exploration is categorized by FEMA as extra (special) engineering service and not part of the Basic Professional Services for design and construction presented in the FEMA curves. In addition to the basic engineering services, special engineering services such as engineering survey, soil investigation, inspection, and feasibility studies are eligible for funding per FEMA Engineering and Design Services policy.

The costs associated with special engineering services should demonstrate cost reasonableness. In order to determine the cost reasonableness for the soil investigation services, the sub-contract was reviewed to determine the scope of work. The scope of work per invoices is as follows:

Soil boring shall consist of:

1. A total of 10 soil borings shall be completed,
2. Each soil boring shall be 75 ft,
3. Soil boring shall be sampled at 5-ft intervals using a 3-in tube sampler,
4. Soil boring shall be grouted upon completion.

Geotechnical analysis shall consist of:

1. A location plan of the performed soil borings with Global Positioning System (GPS),
2. Boring logs reflecting sample depth in North American Vertical Datum of 1988 (NAVD 88),
3. A summary of the laboratory test data,
4. A discussion of the subsoil and ground water conditions at the site,
5. Modulus of horizontal reaction,
6. Pile curves for different pile diameters,
7. Estimate of settlement,
8. Recommendation and conclusion.

Based on the scope of work (SOW) provided by the sub-contractor, Owner's Technical Team developed a line item cost estimate using RSMeans/CostWorks cost estimation resources. The cost estimated for soil investigation for each location is \$4,545.00 (see table below). Therefore, the cost expended by the applicant for soil investigation services is reasonable.

| CostWorks 2011 - [Owner - Soil Investigation] |                 |  |       |            |             |                 |
|---|-----------------|--|-------|------------|-------------|-----------------|
| Qty   | CSI Number      | Description  | Unit  | Bare Labor | Bare Equip. | Total Incl. O&P |
| 1.0   | 01 450 500 5150 | Soil testing, shear tests, triaxial, maximum   | Ea.   | 0.00       | 0.00        | 525.00          |
| 1.0   | 01 450 500 5350 | Soil testing, shear tests, direct shear, ASTM D 3080, maximum                              | Ea.   | 0.00       | 0.00        | 395.00          |
| 1.0   | 02 210 120 0100 | Subsurface investigation, boring and exploratory drilling, drawings showing boring details | Total | 264.00     | 0.00        | 330.00          |



|               |                 |   |       |                   |                   |                   |
|---------------|-----------------|---|-------|-------------------|-------------------|-------------------|
| 1.0           | 02 210 120 0200 | Subsurface investigation, boring and exploratory drilling, report and recommendations from Professional Engineer (PE)                   | Total | 615.00            | 0.00              | 770.00            |
| 1.0           | 02 210 120 0300 | Subsurface investigation, boring and exploratory drilling, mobilization and demobilization, minimum                                     | Total | 180.00            | 206.00            | 500.00            |
| 1.0           | 02 210 120 1400 | Subsurface investigation, boring and exploratory drilling, drill rig and crew with truck mounted auger, includes bit, layout and set up | Day   | 715.00            | 825.00            | 2,025.00          |
| <b>Totals</b> |                 |   |       | <b>\$1,774.00</b> | <b>\$1,031.00</b> | <b>\$4,545.00</b> |

Contract Cost: \$3,500.00

Owner's Estimated Cost: \$4,545.00

Variance: \$1,545.00

**Management Approval:**

\_\_\_\_\_

**Print Name**

\_\_\_\_\_

**Signature**

\_\_\_\_\_

**Date**

\_\_\_\_\_

**Title**

**Comments:**

DISCLAIMER: The analysis for Additional Services may be obscured since such costs are incurred before the project begins and accurate comparisons to overall project costs cannot be obtained.

Note: Reminder within the FAQ the Architect A/E Contract calls for a % of contract which (Historical data for similar work).







# 4. SAMPLE

# Procurement Policy

# Templates

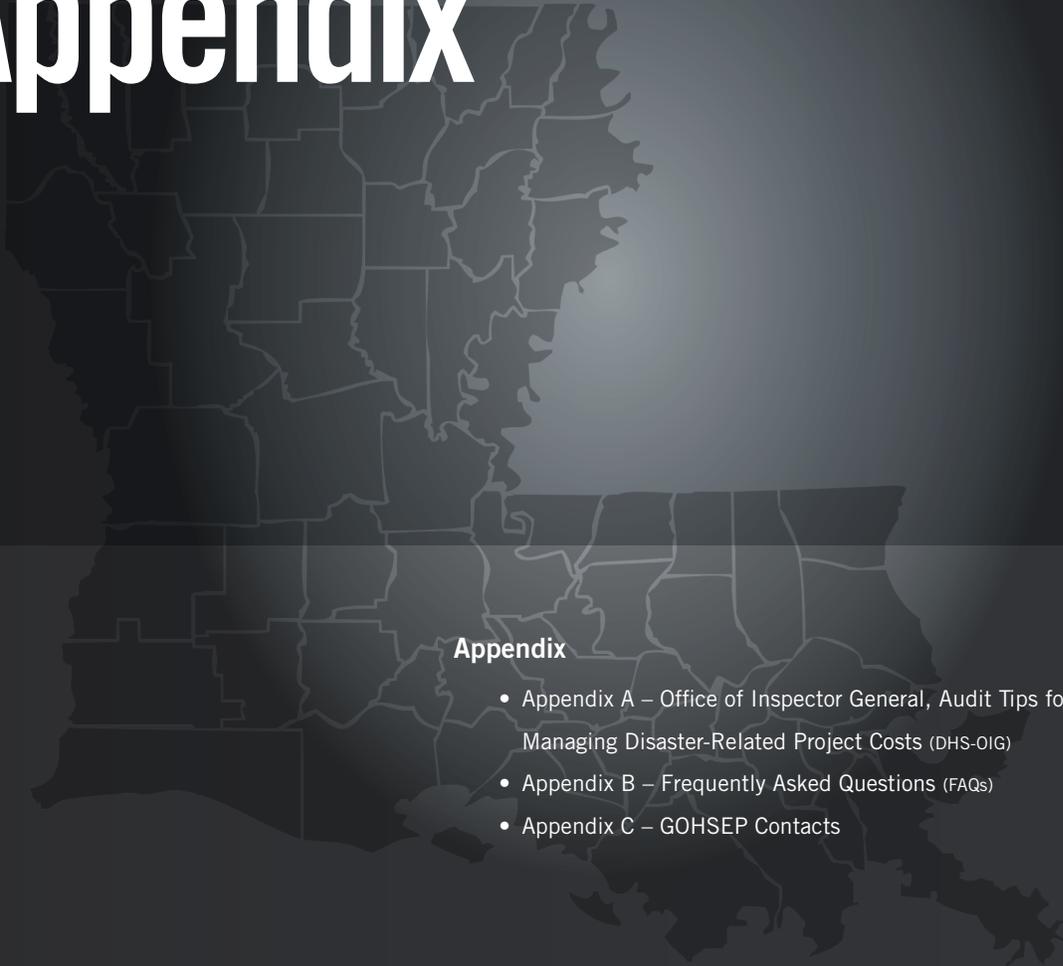
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# 5. Procurement

## Desk Reference

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# Appendix



## Appendix

- Appendix A – Office of Inspector General, Audit Tips for Managing Disaster-Related Project Costs (DHS-OIG)
- Appendix B – Frequently Asked Questions (FAQs)
- Appendix C – GOHSEP Contacts

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## APPENDIX B – FREQUENTLY ASKED QUESTIONS (FAQS)

### 1. What are the three (3) most important points I need to know about Federal procurement?

- Must have a competitive process.
- Stay away from prohibited contracts.
- DOCUMENT, DOCUMENT, DOCUMENT!

### 2. How can the Subrecipient (Applicant) obtain quotes for small purchases?

There is no “right” way. However, an easy and effective way is to identify all of the companies that have the goods or services you need and either hand deliver, telephone, fax or email the request for quotes to them. Must maintain documentation for reimbursement purposes.

### 3. What type of solicitation should be used for procurement of a Direct Administrative Costs (DAC) contract? Why?

An RFP, which includes both qualifications and price.

An RFQ may only be used for the acquisition of architecture and engineering (A/E) design services.

### 4. Does advertising in the official journal satisfy a Subrecipient’s (Applicant’s) requirement for publicizing?

It may, if the minimum number of responses are received. If not, publicizing beyond the official journal or local newspaper and/or sending the bid package to firms who can perform the contract will be needed.

### 5. Is it necessary that all RFQs/RFPs be advertised/publicized?

For RFQs, yes. For RFPs, advertising/publicizing is required based on category and size. Refer to the *Procurement requirements by category of purchase + size of contract* section of this ToolBox for threshold limits and bid requirements.

### 6. What is the minimum number of responses to an RFQ/RFP required by FEMA?

For disasters occurring after December 26, 2014, all contracts less than \$150,000 require three (3) quotes from responsible contractors. All contracts in the amount of \$150,000 or greater require two (2) bid responses from responsible contractors.

### 7. What determines a responsible bidder? Can the Subrecipient (Applicant) count a bid if the Subrecipient (Applicant) rejects a bid?

A responsible bidder is one who has fulfilled all of the administrative requirements stated in the bid package, does not have a conflict of interest, is not currently suspended or disbarred, and demonstrates by its response that it has the necessary experience and capability to perform the contract.

The receipt of a bid from a contractor who is determined not to be responsible is the same as having not received the bid and cannot be counted to achieve the minimum number of responses.

### 8. Are Subrecipients (Applicants) required to contract with small, minority and women-owned enterprises or labor-surplus area firms?

No, but you are required to take certain affirmative steps to use small, minority and women-owned enterprises and labor-surplus area firms whenever possible. Federal regulation (2 CFR 200.321) outlines those requirements and can be found on page 10 of this ToolBox.

### 9. Are A/E contracts allowed to have cost-plus-percentage of cost provisions?

No, although such a provision may be considered industry standard in some circles, such a provision is prohibited by FEMA and should be expressed as a lump sum payment with the ability to increase the fee in the event of required additional services.

### 10. Is there ever an occasion when a competitive procurement process is not required?

Yes, there are two occasions when a competitive procurement process is not required:

1. The purchase of commercial products sold in substantial quantities to the general public. Limited to supplies and materials and to contracts less than \$10,000. Not available to PNPs prior to 12/26/2014.
2. 2 CFR 200.320(a) recognizes micro-purchases (equal or less than \$3000) which do not require competitive quotes.

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## APPENDIX C – GOHSEP CONTACTS

If you have questions regarding this **Procurement ToolBox: Comprehensive guide to getting and KEEPING your FEMA grant dollars!**, please contact any of the following:

### **Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)**

7667 Independence Boulevard, Baton Rouge, LA, 70806

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What else do I  
need to know?

It is **YOUR** responsibility to have a working knowledge of **AND** to comply with local, State, Federal – and your own – procurement guidelines in order to get and keep all funds you were approved to receive. You must ensure that your contractors also follow all applicable procurement guidelines.

For more information or help with your procurement needs, visit <http://www.fema.gov> (search for procurement guidelines 44 CFR 13.36 and 2 CFR 215.44-.48 for grants awarded or PDs *before* 12/26/2014 and 2 CFR 200 for grants awarded or PDs *after* 12/26/2014) **OR** contact your organization's purchasing officer **OR** GOHSEP, 225.925.7500.

