

Addendum to the State of Texas Administrative Plan for Public Assistance for DR-4332-TX Hurricane Harvey

Texas Department of Public Safety
Texas Division of Emergency Management

September 2017

The Addendum to the State of Texas Administrative Plan for Public Assistance for DR-4332-TX Hurricane Harvey is prepared by the Texas Division of Emergency Management and provides citations of the laws, regulations and policies that state procedures must comply with in order to meet Federal program and grant administrative requirements.

Declaration

FEMA-4332-DR-TX was declared on August 25, 2017 for Individual Assistance for the counties of Bee, Goliad, Kleberg, Nueces, Refugio; and for Direct Federal Assistance and Category A and B, the counties of Bee, Goliad, Kleberg, Nueces, Refugio, and San Patricio. Due to the magnitude of the storm, additional counties and categories will be declared. These additions will be noted as amendments to the FEMA State Agreement.

Purpose, Audience and Authority

This section defines the purpose, intended audience and authorities of the Addendum to the State of Texas Administrative Plan for Public Assistance for DR- 4332-TX Hurricane Harvey

Purpose

This addendum to the State Administrative Plan for Public Assistance describes additional specific details for managing DR-4332-TX by the Texas Division of Emergency Management (TDEM), Texas Department of Public Safety (DPS), in accordance with 44 CFR §206.207 (b) (3).

Audience

- Federal Emergency Management Agency (FEMA)
- Texas Division of Emergency Management (TDEM)

State Authorities

- Texas Disaster Act of 1975, as amended
- Executive Orders of the Governor
- Uniform Grant and Contract Management Act (Texas Government Code, Chapter 783)

Federal Authorities

- Public Law 93-288, as amended (Stafford Act)
- Disaster Mitigation Act of 2000
- FEMA Regulations, 44 CFR Parts 204, Fire Management Assistance Grant Program, -206 Federal Disaster Assistance & 207 Management Costs
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12372, Intergovernmental Review of Programs and Activities
- Executive Order 12549, Debarment and Suspension
- Executive Order 12612, Federalism
- Executive Order 12699, Seismic Design
- Executive Order 12898, Environmental Justice
- Coastal Barrier Resources Act, Public Law 97-348
- Single Audit Act, Public Law 98-502
- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Sandy Recovery Improvement Act publications

- National Historic Preservation Act, 16 U.S.C. § 470,
- Endangered Species Act References, 16 U.S.C. § 1531,
- FEMA program publications, guidance and policies
- FEMA-State Agreements

Assumptions

This section provides an overview of planning assumptions contained in this document

Assumptions

- Sub-recipients of DR-4332 will have any OIG audit and/or legal issues resolved by the anticipated closure date.
- Due to the current outlook for the complexity of projects, this disaster may take up to 8 years to close.
- TDEM or Federal Emergency Management Agency (FEMA) will not experience any long- term hardware or software problems which would prevent processing of data necessary to facilitate the closing of DR-4332.
- TDEM and FEMA have agreed to utilize the new FEMA PA Program Delivery Model to facilitate the writing and development of Project Worksheets.
- TDEM will be introducing its Grants Management System (GMS) to the sub-recipients allowing full access and visibility to its projects and activities within the grant.
- TDEM has requested and FEMA has activated the Community Disaster Loan (CDL) program. TDEM will assist jurisdictions within the declared counties to apply for this additional assistance.

Administration

This section provides an overview of organization, record keeping, and state management costs.

Organization

Public Assistance Organization

TDEM will use a combination of staff, temp services, and contractors to administer the DR-4332 Public Assistance Grant from FEMA.

General Roles

Management and roles related to the Public Assistance (PA) Grant Program are described in the State Administration Plan (SAP).

Management

In summary of SAP provisions, the Director [Chief] of TDEM is the Governor's Authorized Representatives (GAR) and SCO, the Assistant Division Director is the Alternate GAR (ALT GAR). The Supervising Program Director (SPD) provides day-to-day program management with the assistance of five Section Administrators; one each located in each of the DPS Regions, with one covering Region 4 and 5. Each Section Administrator has one or more Grant Coordinators that oversee projects and sub-recipients within its respective regions. Additionally, the Section Administrators oversee the mitigation activities within their respective regions.

Staff

Internal staff is made up of the Recovery program personnel above and other supporting positions including:

- Grant Coordinator – coordinates preliminary damage assessment (PDAs) and applicant briefings, provides liaison with FEMA staff in the JFO and AFOs, conducts reviews of contractor activities, provides technical review and may be assigned to work with and monitor Subrecipients directly. Grant Coordinator I, II, and III represent a progression in knowledge and experience within the position. Grant Coordinator IIIs will be assigned the more difficult projects and may serve as technical reviewers.
- Engineer and Engineering Specialist – Provides engineering technical support during PDAs, project writing and compliance monitoring activities when requested.
- Executive Assistant – Works with the GAR and ALT GAR to issue correspondence to applicants requesting assistance, performs activities related data collection and recordkeeping of documentation related to declaration activities.
- Regional Disaster Finance personnel – Provide training and technical support to sub-recipient administration and finance staff on grants related rules and responsibilities.

- Standards Office personnel – Conduct single audit reviews of sub-recipients and provides technical support related to audits, risk assessments and general accounting principles.
- Emergency Management Support – Provides accounting and payment processing services.
- Grants Processing Coordinators – Provides review and processing of contracts, invoices and contractor reporting.
- Other Personnel – May provide support as needed. This includes but is not limited to accounts payable, accounts receivable, grants accounting, financial reporting, procurement, business process reviews, internal audit, information technology, asset inventory and staff training.
- Administrative Support – Provides support and enhancements to the state's Grant Management System (GMS).

Contractor Staff

Contractor staff (Affiliates) are broken up into roles and teams that mirror the Recovery program staff, including Section Administrators, Grant Coordinators and Program Support Technicians. They are assigned sub-recipients once a county is declared and perform the activities of recovery program staff including attending kickoff meetings; formulating projects; placing projects in the approval queue for the state; orienting sub-recipients to program requirements; conducting site visit; processing payment requests; collecting quarterly report information; processing requests for amendments or appeals; monitoring sub-recipient recordkeeping for DAC, procurement, project management, financial supporting documentation and equipment logs; and performing reviews of projects for compliance with law, rules, regulations and program requirements. They work under the supervision of program management and program staff conduct review of their work and reports.

Management of Contract Staff

The provisions of the contracts that control the activities of the contractors are summarized below:

General Provisions

The contract is awarded to multiple vendors to allow for both current needs and that of any future disaster. This is a contract to provide professional services to the Department for administration of federally funded disaster grants and monitoring compliance, as assigned. This Contract is a no minimum, non- exclusive, as needed, as requested Contract. (B.1.2 Pricing Schedules) This contract establishes hourly rates that are firm fixed pricing applicable to the services. With the exception of travel approved by the Department in writing in advance, these hourly rates are inclusive of all costs, fees and expenses and represent Contractor's sole compensation under this Contract. (B.1.2 Pricing Schedules) This contract requires that all cost be allowable under federal grant guidelines that are enumerated. (B.1.3 Allowable Costs).

Grant Monitoring Services (C.5.A)

Monitoring

Monitor assigned TDEM sub-recipient(s') Grant Project(s) using various methods that ensure completion of work within established timelines and in accordance with prescribed standards.

Monitoring provides reasonable assurance that adequate progress is being made toward achieving the grant's goals and that federal funds are being expended in accordance with their intended purpose and in accordance with federal grant, procurement, allowability and program guidelines.

Assignments

As each assignment is given an individual budget will be approved for all work under that assignment and any changes in budget must be approved in writing in advance.

Deliverables

FREQUENCY/ DUE DATE	DESCRIPTION	REPORT - DELIVERABLE	AUTHORITY
Section C.5.A – Grant Monitoring			
Two business days before reports are due to FEMA / Quarterly	Collected information from sub-recipients on each assigned project	Quarterly FEMA Reports	Contract, Section C.5.A
Second business day of the following month / Monthly	Includes general status, meetings and communications with Subrecipients, whether project is on budget, on time, in scope, any significant issues, problems on non-compliance matters	Monthly Project Progress Reports	Contract, Section C.5.A
Wednesday / Weekly	Includes any requests from Subrecipient for scope changes, scheduled meetings, any significant issues, problems or non-compliance matters.	Weekly Issue Reports	Contract, Section C.5.A
Within five business days of request / As needed	Includes project overruns or under-runs, scope changes, request for reimbursement, time extensions, appeals, closeouts	Requests for grant amendments	Contract, Section C.5.A

FREQUENCY/ DUE DATE	DESCRIPTION	REPORT - DELIVERABLE	AUTHORITY
Ongoing / Immediate	Documentation of contact with sub-recipients including: compliance and monitoring plan; electronic mail; phone conversation, meeting and site visit records; correspondence; records of reviews showing that federal funds are being expended in accordance with their intended purpose and in accordance with federal grant, procurement, allow ability and program guidelines; and Other associated project management documentation	Accessible case management file	Contract, Section C.5.A
As needed	As Assigned	Ad hoc reporting	Contract, Section C.5.A
Tuesday following end of week / Weekly	Time sheets shall note labor category, type of activity and be broken out by disaster and by project	Weekly time sheets of all staff on each project	Contract, Section C.5.A
Tuesday following end of week / Weekly	Expense Reports shall note reason for expense (i.e. site visit) broken out by disaster and by project	Weekly Expense Reports	Contract, Section C.5.A
As needed	Within five days of receipt of Public Information Request.	Copies of requested files, including report of exceptions will be submitted to TDEM	Contract, Section C.5.A
As needed	Daily, for the duration that Damage Assessments are being conducted	worksheets for each site and a spreadsheet consolidating/ summarizing the	Contract, Section C.5.A

Approval/Acceptance

DPS approves each assignment's budget and the deliverables in writing prior to final acceptance of assignment. The Contractor is required to allow for routine review of

sub-recipient case management files by TDEM. Peer and management reviews will be conducted. The Department reserves the right to suspend the agreed upon assigned projects. Suspension of work under this Contract shall be solely at the discretion of the Department.

Payment

Contractor will bill monthly for labor hours and travel in accordance with hours documented weekly in deliverables. Budget shall be considered “not to exceed” and Contractor shall bill the Department for actual hours spent on a given assignment. The Contractor shall keep the Department Program Manager or designee apprised of the budget spent and progress toward grant closeout and shall notify same as soon as practicable if it becomes apparent that the budget deviates from projections. No invoices in excess of the approved budget shall be paid without an approved modification.

Contract Risk Management

This Contract is a no minimum, non-exclusive, as needed, as requested Contract and as such no vendor is guaranteed any minimum amount and will not have the exclusive right to provide services to DPS. DPS may contract for the same or similar items at any time.

Any Contractor is required to provide the Department at engagement and with any extension: Copies of the Contractor's most recent peer review; at least one rating from organizations such as Dun & Bradstreet and Fitch Ratings; and the following information – Gross Revenues, Current Ratio and Contingent liabilities to the extent that they would materially affect gross revenues or reduce the current ratio below 1.0, also, with any other financial information reasonably requested by the Department.

Additionally, any Contractor is required to provide Contractor's proprietary financial reports and financial information acceptable to the Department within one hundred twenty (120) calendar days after the end of the Contractor's fiscal year.

DPS payments under Grant Monitoring will require weekly reports be matched to monthly billing and be monitored to ensure billing is not exceeding the scheduled pace set out in the pre-approved budget.

Also, DPS has the right to withhold the invoice payment until the failures described below have been corrected: failure to submit reports required in the Section on Deliverable; failure to respond to audit reports as set forth in the Section on Inspection of Services; and failure to correct identified areas of non-compliance to the satisfaction of the Department within twenty (20) days upon receipt of written notification.

DPS will own all the complete files, notes, charts and drawings related to the execution of the services under this Contract. All documents written to fulfill this Contract shall be the property of the Department; the Department may use, update, and distribute the documents as the Department deems appropriate.

There are specific requirements for keeping confidential records and sensitive personal information private and for requiring the Contractor remedy any breaches or be assessed liquidated damages.

All Contract staff will receive background investigations and criminal history checks before being allowed to work. Also the Contractor will be required notify DPS anytime a staff person is removed from the project so that all access can be cancelled. Key personnel cannot be removed without permission and is required to remove any staff deemed unsuitable by DPS.

Contractors must allow for inspection and audit.

DPS may terminate for convenience, for cause, for being on the debarred list or for default and, if so, incur only pre-determined costs for work completed, delivered by the Contractor and accepted in writing by DPS for work completed prior to the termination date.

In addition, DPS can stop assigning work (no minimum, as requested) to any contractor at any time for any reason and may even remove previously assigned projects.

Contractors will indemnify DPS against claims, including without limitation, infringement claims.

Contractors will maintain insurance coverages, with DPS as an additional insured, a loss payee or a certificate holder [depending on type of coverage].

Recordkeeping

Recipient Recordkeeping

TDEM will maintain grant records within their Grant Management System (GMS) related to routine FEMA grant related and all sub-recipient communication. GMS will also store all program payment processing records. Financial, Contract, Inventory and Procurement records for the recipient will be maintained within the appropriate DPS divisions but will be marked as grant related for retention purposes.

Sub-recipient records required to be submitted to the Recipient will be maintained in GMS until the appropriate retention period has expired.

Retention procedures are outlined in the State Administrative Plan (SAP).

Sub-recipient Recordkeeping

Sub-recipient will be required to maintain project records until the expiration of the appropriate retention period. This includes records related to DAC, procurement, contracting, accounts payable, engineering, inventory, force account (materials, labor, equipment), insurance settlements or other records related to the project scope of work.

Retention procedures are outlined in the SAP.

Closeout of Disaster

Scope of Disaster Grant Projects

Currently TDEM is anticipating over 2000 applicants for this grant and approximately 15,000 projects. However, we anticipate that a majority of the projects will be small

with a large number of category A and B. A small project team will be created to expedite the payment and closure of the smalls. There will be a significant number of large projects for bridge, water facilities and dam rebuilding and major repairs that will have significant planning, engineering and construction scope. These projects will take a significant amount of time to complete. Most projects will not be covered by insurance, but insurance settlement could be an issue on a few of the building projects.

Expedited Projects

FEMA will obligate 50 percent federal share on Expedited Projects. TDEM will advance to the sub-recipient 90 percent of this federal share, maintaining a ten percent holdback.

Closeout of Projects

TDEM's compliance monitoring strategy will enable projects to be closed at the end of final payment for each project and the SAP requires that the final payment to be requested and all supporting documentation be submitted by the sub-recipient within 60 days of the end of the performance period for each project. This will give TDEM sufficient time to process all payments on an ongoing basis and to complete all payments with 180 days of the completion of the final project.

Large Projects Written as 100 percent Complete

TDEM is relying upon the review process of the Consolidated Resource Center (CRC) to fully vet all components of the project including, but not limited to procurement, contracting, insurance, and force account labor, materials, and equipment. TDEM will collect from the sub-recipient proof of payment, certification of no duplication of benefits, and a project closeout certificate. No further review or sight inspection will be performed.

Small Projects

To expedite the funding of small projects, TDEM has elected to pay small projects upon obligation without requiring the submittal of a Request for Reimbursement. Additionally, small projects will be closed upon obligation. This will render the project closed with FEMA. For projects 100 percent complete when written, TDEM must receive from the Subrecipient the certificate of completion and the certification that no duplication of benefits prior to the state closeout. Projects not complete when written will be placed into monitoring.

Closeout of the Disaster Grant

Based on the scope of the disaster as outlined above, TDEM anticipates that all projects will be completed by August of 2025 and that the disaster can be closed by December of 2025. This may need to be adjusted once all projects have been approved and assigned completion dates.

State Management Costs

Recipient 324 Management Funds (SMC) and Direct Administrative

Costs (DAC)

Both SMC and DAC will be used for the internal staff salaries, contractor payments and other support costs associated with this disaster grant. This will be in accordance with all laws, rules and FEMA regulations. The breakdown of how expenses will be allocated between SMC and DAC is enumerated in the chart provided in the Elizabeth Zimmerman correspondence in 2008. This is the method we will use.

Pass-Through SMC Costs

As stated in the SAP, the State has elected not to reserve any 324 management cost funds for the pass-through amount to sub-recipients. It is anticipated that TDEM will require all available 324 management funds in order to manage the grant. Request from sub-recipient on a need for additional management cost will be reviewed by the TDEM [DPS Division Director] Chief on a case by case basis but will not exceed .05%

Sub-recipient DAC

Sub-recipients will charge DAC to the PW as a project cost and will be required to account for such expenses as they would with any other expenses related to the project. The state has elected to participate in the Public Assistance Alternative Procedures for Direct Administrative Costs. Subrecipients may elect to participate in the normal DAC program or in the new alternative procedure DAC. The state will ensure that all provisions of the voluntary program are followed as outlined in the Recovery Policy dated October 25, 2017, "Public Assistance Alternative Procedures for Direct Administrative Costs".

Pre-Award Costs

In accordance with 2 CFR §200.458 and the 2016 State of Texas Administrative Plan for Public Assistance D.3.b(3), TDEM will request pre-award costs for Preliminary Damage Assessments (PDA's) through submission of budget estimates.

Budget

The operating budget to include pre-award costs and indirect costs will be submitted within 120 days of the declaration.

Current Thresholds

Project Type	Threshold
Large Project Threshold	\$123,100
Minimum Project Threshold	\$3,100
Micro Purchase Threshold	\$3,500
Simplified Acquisition Threshold	\$150,000