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Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

- I. **TITLE:** Interim Guidance to implement the provisions of 2 C.F.R. Part 200 for the Disaster Case Management Program (DCMP).
- II. **DATE OF ISSUANCE:** December 26, 2014
- III. **PURPOSE:** This document provides Interim Guidance to implement provisions of the “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards” found at 2 C.F.R. Part 200 and adopted by Department of Homeland Security (DHS) at 2 C.F.R. Part 3002 through 79 FR 75871 which will apply to all federal awards for the DCMP (referenced in the *Disaster Case Management Program Guidance, March 2013* (DCMP Guidance) as “State Disaster Case Management Grants”, and hereinafter referred to as “DCMP awards”). This Interim Guidance is not exhaustive; grantees and subgrantees are subject to all applicable provisions in 2 C.F.R. Part 200.
- IV. **SCOPE AND EXTERNAL AUDIENCE:** This Interim Guidance applies to all DCMP awards authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and made under major disaster declarations issued on or after December 26, 2014. To the extent the DCMP Guidance conflicts with this Interim Guidance, it is superseded for such DCMP awards. Grantees and subgrantees receiving such a DCMP award must comply with the requirements of 2 C.F.R. Part 200, and with the DCMP Guidance, except to the extent the DCMP Guidance conflicts with this Interim Guidance.
- V. **AUTHORITY:** 42 U.S.C. §5189d; 2 C.F.R. Part 200
- VI. **GUIDANCE DETAILS:** On December 26, 2014, DHS adopted in whole 2 C.F.R. Part 200 through 79 FR 75871, which supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in OMB guidance, including 2 C.F.R. Parts 215, 220, 225, and 230); OMB Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. At the same time, FEMA removed 44 C.F.R. Part 13 from the Code of Federal Regulations. The following provides Interim Guidance to grantees and subgrantees receiving DCMP awards on how to comply with 2 C.F.R. Part 200.



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

VII. INTERIM GUIDANCE

A. Definitions

The following definitions, adapted from 2 C.F.R. Part 200, are used throughout this Interim Guidance. The definitions include terminology changes to the DCMP Guidance. This is not an exhaustive list of definitions; all of the definitions found at 2 C.F.R. Part 200 apply to the administration of FEMA awards.

1. Applicant: An applicant is a State, U.S. Territory, or Indian tribal government that applies to FEMA for a DCMP award. A sub-applicant applies for a DCMP award through the applicant.
2. Closeout: Closeout means the process by which FEMA or the pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in 2 C.F.R. § 200.343 and this Interim Guidance.
3. Federal award: The Federal award is the Federal financial assistance that a non-Federal entity receives from the federal government or indirectly from a pass-through entity.
4. Indian tribal government: An Indian or Alaska Native Tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. §479a
5. Non-Federal entity: A non-Federal entity is a State, U.S. Territory or Indian tribal government, or a private organization that carries out a Federal award as a recipient or subrecipient, or as referenced in previous guidance, a grantee or subgrantee.
6. Nonprofit organization: Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including Institutes of Higher Education, that is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, is not organized primarily



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

- for profit and uses net proceeds to maintain, improve, or expand the operations of the organization.
7. Pass-through entity: A pass-through entity is a State, U.S. Territory or Indian tribal government that provides a subaward to a subrecipient to carry out part of a DCMP award, or as referenced in previous guidance, a grantee that provides a subgrant to a subgrantee.
 8. Period of performance: The period of performance is the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award.
 9. Pre-award costs: Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with written approval of FEMA. See 2 C.F.R. § 200.209 and 2 C.F.R. § 200.458.
 10. Recipient: A recipient is a State, U.S. Territory or Indian tribal government that receives a Federal award directly from the Federal government to carry out an activity under the DCMP. A recipient may also be a pass-through entity. The term recipient does not include subrecipients.
 11. State: A state is any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands
 12. Subaward: A subaward is an award provided by a State, U.S. Territory or Indian tribal government to a subrecipient, or as referenced in previous guidance, a subgrant provided by a grantee to a subgrantee, for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

13. **Subrecipient:** A subrecipient is a local government, Indian tribal government, or private organization that receives a subaward from a State, U.S. Territory or Indian tribal government to carry out part of a Federal program, or as referenced in previous guidance, a subgrantee that received a subgrant from a grantee to carry out part of a Federal program. The term subrecipient does not include an individual that is a beneficiary of the Federal program.

B. Terminology References

Unless stated otherwise in this Interim Guidance, the following terminology references in existing guidance must be read in conjunction with the corresponding definition in this Interim Guidance.

1. **Subgrant:** All references to *subgrant* in existing DCMP guidance are subject to the requirements of a *subaward*, as defined in this Interim Guidance; and to the requirements of *federal awards*, as defined in 2 C.F.R. Part 200 and this Interim Guidance, with respect to funds a subgrantee receives indirectly from a pass-through entity.
2. **Subgrantee:** All references to *subgrantee* in existing DCMP guidance are subject to the requirements of a *subrecipient*, as defined in this Interim Guidance; and to the requirements of *non-federal entities*, as defined in this Interim Guidance. **Grant:** All references to *grant* in existing DCMP guidance are subject to the requirements of a *federal award*, as defined in 2 C.F.R. Part 200 and this Interim Guidance.
4. **Grantee:** All references to *grantee* in existing DCMP guidance are subject to the requirements of a *recipient*, as defined in 2 C.F.R. § 200.86 and this Interim Guidance; to the requirements of a *non-federal entity*, as defined in this Interim Guidance; and to the requirements of a *pass-through entity*, as defined in this Interim Guidance, with respect to the *grantee's* role in administering the award to a *subgrantee*.

C. General Provisions

1. **Conflict of Interest**
To eliminate and reduce the impact of conflicts of interest in the subaward process, recipients and pass-through entities must follow their own policies



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

and procedures regarding the elimination or reduction of conflicts of interest when making subawards. Recipients and pass-through entities are also required to follow any applicable State, local, or tribal statutes or regulations governing conflicts of interest in the making of subawards.

The recipient or pass-through entity must disclose to FEMA in writing, any real or potential conflict of interest, as defined by the Federal, state, local, or tribal statutes or regulations or their own existing policies that may arise during the administration of the federal award. Recipients and pass-through entities must disclose any real or potential conflicts to FEMA HQ within 15 days of learning of the conflict of interest. Similarly, subrecipients must disclose any real or potential conflict of interest to the pass-through entity as required by the Recipient's conflict of interest policies, or any applicable State, local, or tribal statutes or regulations.

Conflicts of interest may arise during the process of FEMA making a Federal award in situations where an employee, officer, or agent, any members of his or her immediate family, his or her partner has a close personal relationship, a business relationship, or a professional relationship, with an applicant, subapplicant, recipient, subrecipient, or FEMA employees.

For conflict of interest requirements for procurement under grant awards, all non-Federal entities must follow the requirements under the procurement regulations found at 2 C.F.R. §§ 200.317-200.326.

2. Mandatory disclosures

A recipient or applicant for a Federal award must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Such disclosure shall be submitted in writing to the assigned FEMA program specialists at FEMA headquarters at the time of the application, or if the violation occurs after the time of application, no later than 15 days after confirmation that such a violation occurred.

A subrecipient or subapplicant must disclose the same information to the recipient or applicant at the time of their application, or if the violation occurs



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

after the time of application, no later than 15 days after confirmation that such a violation occurred.

D. Pre-Federal Award Requirements and Content of Federal Awards

1. Information Contained in a Federal Award

A federal award must include detailed information, including:

- Recipient name (which must match registered name in DUNS);
- Recipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS) number);
- Unique Federal Award Identification Number (FAIN);
- Federal Award Date (see § 200.39 Federal award date);
- Period of Performance Start and End Date;
- Amount of Federal Funds Obligated by this action;
- Total Amount of Federal Funds Obligated;
- Total Amount of the Federal Award;
- Approved Budget;
- Federal award project description, to comply with statutory requirements (e.g., FFATA);
- FEMA contact information for awarding official;
- CFDA Number and Name.

The Federal award must also comply with the General Terms and Conditions outlined in 2 C.F.R. § 200.210.

2. Performance Goal

For all DCMP awards, by the time the recipient is half way through the time approved for the period of performance, the recipient will provide DCMP services to 50% of the population the recipient identified in the approved application.

E. Post Federal Award Requirements

1. Period of Performance

The period of performance for the DCMP award is up to 24 months from the date of declaration as described in the Notice of Grant Award (NOGA).



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

A non-Federal entity may charge to the Federal award only allowable costs incurred during the *period of performance* and any approved pre-award costs incurred before FEMA made the DCMP award. Any costs incurred after the period of performance, including during the 90 day closeout timeframe for submitting all financial and performance reports in accordance with 2 C.F.R. § 200.343(a), are not chargeable to the DCMP award.

When a recipient provides a subaward to a subrecipient, the recipient must include the start and end dates of the period of performance in the subaward document. *See* 2 C.F.R. § 200.77.

A recipient may request an additional 90 day extension to the period of performance with adequate justification and documentation as described in the DCMP Guidance. The recipient must submit a written request for the extension to the appropriate FEMA Regional Office no later than 60 days prior to the end of the current period of performance.

2. Pre-Award Costs

Pre-award costs are subject to the requirements in 2 C.F.R § 200.458, 2 C.F.R § 200.209, and the DCMP Guidance.

As stated in the DCMP Guidance, reimbursement for pre-award costs associated with the development of a DCMP award application may be considered upon written request to FEMA and only with prior approval from FEMA before issuance of the NOGA.

3. Revision of budget and program plans

Recipients must request prior written approval for all budget and program plan revisions. *See* 2 C.F.R. § 200.308 and DCMP Guidance.

Requests for supplemental funding may be requested during the first 12 months of the DCMP period of performance, but no later than 90 days before the end of the period of performance.

4. Equipment



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

The non-Federal entity obtains title to the equipment acquired under the DCMP award is subject to the conditions outlined in 2 C.F.R. § 200.313, including to:

- (1) Use the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.
- (2) Not encumber the property without approval of FEMA.
- (3) Use and dispose of the property in accordance with 2 C.F.R. § 200.313.

Equipment acquired with a DCMP award must be used consistent with the purposes of the DCMP award and to benefit the beneficiaries of the DCMP project.

5. Supplies

FEMA retains an interest in any unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the DCMP project or program if they are not needed for any other Federal award. The non-Federal entity must compensate FEMA for its share of the supplies in compliance with 2 C.F.R. §§ 200.313 & 200.314.

As long FEMA retains an interest in supplies, the non-Federal entity must not use the supplies to provide services to other organizations for a fee that is less than private companies charge for equivalent services.

6. Procurement Standards

When procuring property and services under a Federal award, a state recipient or subrecipient must follow the same policies and procedures it uses for procurements from its non-Federal funds and the requirements outlined in 2 C.F.R. § 200.317.

All recipients and subrecipients that are not a State, including subrecipients of a State that are not a State, will follow 2 C.F.R. §§ 200.318- § 200.326.

Non-profits organizations, as defined at 20 U.S.C. 1001 that were previously subject to the procurement requirements located at 2 C.F.R. Part 215, are also



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

subject to the procurement requirements located at 2 C.F.R. §§ 200.318 – 200.326. These requirements may differ significantly from previous requirements and the impacted non-Federal entity should familiarize itself with these requirements.

7. Subrecipient and contractor determinations

In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. Non-Federal entities should follow the guidance outlined in 2 C.F.R. § 200.330. The recipient or pass-through entity must document this determination and make it available to FEMA upon request.

8. Requirements for Pass-Through Entities

Pass-through entities have additional responsibilities when administering subawards, many of which are highlighted in this Interim Guidance and listed below. This Interim Guidance does not provide an exhaustive list and pass-through entities must adhere to all of the requirements in 2 C.F.R. Part 200.

All pass-through entities must:

- (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes information required in 2 C.F.R. § 200.331.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described 2 C.F.R. § 200.331.
- (c) Consider imposing specific subaward conditions upon a subrecipient, if appropriate, and notify subrecipient, as described in 2. C.F.R. § 200.207.
- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include the requirement found in 2 C.F.R. § 200.331.



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

- (e) Verify that every subrecipient is audited as required by 2 C.F.R. Subpart F—Audit Requirements when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501.
- (f) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- (g) Consider taking enforcement action against noncompliant subrecipients as described in 2. C.F.R. § 200.338.

9. Remedies for Noncompliance and Specific Conditions

FEMA may apply specific award conditions, as outlined in 2 C.F.R. § 200.207, if it is necessary to address a risk posed by an applicant or recipient, including but not limited to an applicant's history of failing to comply with the terms of a Federal award or failure to meet expected performance goals. These specific conditions may include, but are not limited to, requiring technical or management assistance, additional financial reports and project monitoring, and payments as reimbursements rather than advance payments.

If those additional conditions do not remedy a recipient's non-compliance, additional remedies are available, including:

- (a) Temporarily withholding cash payments
- (b) Disallowing costs
- (c) Wholly or partially suspending or terminating the award
- (d) Suspension or debarment proceedings
- (e) Withholding further Federal awards for the project or program
- (f) Any other remedies legally available.

10. Termination

The Federal Award may be terminated in whole or in part:

- (a) By FEMA or the pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (b) By FEMA or the pass-through entity for cause;
- (c) By FEMA or the pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

- (d) By the non-Federal entity upon sending written notification to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the FEMA or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, FEMA or pass-through entity may terminate the Federal award in its entirety.

FEMA Headquarters will provide written notice of termination to the State, US territory, or Indian tribal government who received a DCMP award.

The pass-through entity must provide to the subrecipient a notice of termination.

11. Opportunities to Object, Hearings and Appeals

Objections/Appeals of Application Decisions:

Consistent with the DCMP Guidance, for appeals concerning DCMP award application decisions the recipient may submit a written appeal letter to the Assistant Administrator for Recovery within 60 days from the date of notification of the application decision. The decision of the Assistant Administrator for Recovery is final agency action and is not subject to further appeal. Appeal letters must be signed by the Governor's or Tribal Chief Executive's Authorized Representative.

Appeals of Remedies for Non-Compliance:

The State, U.S. Territory or Indian tribal government may submit a written appeal letter (including supporting documentation), signed by the Governor's or Tribal Chief Executive's Authorized Representative to the Assistant Administrator for Recovery within 15 days of the date of notification of the remedial action.

Objections/Appeals of Termination/Suspension:



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

The State, U.S. Territory or Indian tribal government may submit a written appeal letter (including supporting documentation), signed by the Governor's or Tribal Chief Executive's Authorized Representative to the Assistant Administrator for Recovery within 15 days of the date of notification of the disallowed cost.

12. Closeout and Retention Requirements for Records

FEMA will close out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. The recipient must submit all closeout reports for the subaward no later than 90 days after the end of the entire DCMP award's period of performance, pursuant to the following:

Final reports:

- The final program report is due to FEMA Headquarters and Regional grants management staff no later than 90 calendar days after the end of the DCMP award's entire period of performance.
- A final expenditure report showing expenditures of funds by category and budget line for each subrecipient listed in the approved budget is due to FEMA Headquarters and the Regional Grants Management staff no later than 90 days after the end of the entire DCMP award's period of performance.
- The final SF 425 is due to FEMA Headquarters and the Regional Grants Management staff no later than 90 days after the end of the entire DCMP award's period of performance. All obligations must be liquidated, the exact balance of funds must be indicated and total expended funds must be consistent with the line-item report.

The recipient and subrecipients, if any, must retain all financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to the DCMP award for a period of three years from the date of submission of the final expenditure report.

When the non-Federal entity is notified in writing by FEMA, the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend



FEMA

Disaster Case Management Program Interim Guidance on 2 C.F.R. Part 200

the retention period, non-Federal entities must keep records as indicated in the notification, which may be longer than three years.

FEMA and the pass-through entity retain the right to disallow costs and recover funds on the basis of a later audit or other review after closeout

F. Cost Principles and Audit Requirements

All non-Federal entities are required to comply with the Cost Principles and Audit Requirements as outlined in 2 C.F.R. Part 200.

VIII. RESPONSIBLE OFFICE: Individual Assistance Division

IX. SUPERSESSION: This Interim Guidance supersedes any conflicting provisions of DCMP guidance and related documents on this subject for DCMP awards authorized by the Stafford Act and made under major disaster declarations issued on or after December 26, 2014.

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