

Addendum to the State of Texas Administrative Plan for Public Assistance for DR-4416-TX

Texas Department of Public Safety
Texas Division of Emergency Management

February 2019

The Addendum to the State of Texas Administrative Plan for Public Assistance for DR-4416-TX 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-4416-DR-TX was declared on February 25, 2019 for Direct Federal Assistance and Damage Categories A through G for the counties of Archer, Baylor, Brown, Burnet, Callahan, Comanche, Coryell, Dimmit, Edwards, Fannin, Franklin, Grimes, Haskell, Hill, Hopkins, Houston, Jones, Kimble, Kinney, Knox, Llano, Madison, Mason, McCulloch, Menard, Nolan, Real, San Saba, Sutton, Throckmorton, Travis, Uvalde and Val Verde. Three counties were added after the initial declaration: Polk, Schleicher and Walker counties.

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-4416-TX

Purpose

This addendum to the State Administrative Plan for Public Assistance describes additional specific details for managing DR-4416-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
- 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

- Subrecipients of DR-4416 will have any OIG audit and/or legal issues resolved by the anticipated closure date.
- TDEM or FEMA will not experience any long-term hardware or software problems which would prevent processing of data necessary to facilitate the closing of DR-4416.
- 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 utilizing its Grants Management System (GMS), allowing subrecipients full access and visibility to projects and activities within the grant.

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-4416 Public Assistance Grant from FEMA.

General Roles

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

Management

In summary of SAP provisions, the Chief of TDEM is the Governor's Authorized Representatives (GAR) and SCO; the Assistant Chief of Disaster Finance, Recovery, Mitigation and Standards (DFRMS), the Assistant Chief of Field Services, and the State Coordinator for Operations are the Alternate GARs (ALT GARs). The State Coordinator for Public Assistance (SC) provides day-to-day program management with the assistance of five Section Administrators; one located in each of the DPS Regions, with one covering Regions 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 to data collection and recordkeeping of documentation related to declaration activities.
- Regional Disaster Finance personnel – Provide training and technical support to subrecipient administration and finance staff on grants related rules and

responsibilities.

- Standards Office personnel – Conduct single audit reviews of subrecipients and provide technical support related to audits, risk assessments and general accounting principles.
- Emergency Management Support – Provides accounting and payment processing services.
- Grants Processing Coordinators – Provide 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 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 subrecipients once a county is declared and perform the activities of recovery program staff including attending Recovery Scoping meetings; formulating projects; placing projects in the approval queue for the state; orienting subrecipients to program requirements; conducting site visits; processing payment requests; collecting quarterly report information; processing requests for amendments or appeals; monitoring subrecipient recordkeeping for 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 a single vendor 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 with no specific amount of compensation guaranteed. (B.1.5 Cost Instructions) This contract establishes contractor fees that are based on a percentage of the project value, size and program type and include hourly rates that are firm fixed pricing applicable to the services. These fees are inclusive of all costs, fees and expenses and represent contractor's sole compensation under this contract. (J.10 Pricing Schedules) This contract requires that all costs be allowable under federal grant guidelines that are enumerated. (B.1.3 Allowable Costs).

Grant Administration Activities (C.3.A.1)

As part of the Grant Administration Activities, contractor staff will:

1. Perform complex (journey-level) grant coordination, financial and programmatic compliance, technical assistance and administration work to plan, organize and monitor federally funded disaster subgrant awards within the state of Texas.
2. Conduct applicant briefings and other outreach and training activities, ensure grant applications are processed properly and monitor both the programmatic and financial aspects of awarded projects.
3. Ensure deadlines are met, applications or other documentation are complete and correct before submission to federal authorities, monitoring activities are conducted in accordance with the project guidelines and payment requests are promptly and correctly processed.
4. Review progress reports, payment requests and provide guidance and assistance to grant recipients on documentation requirements and resolution of project-related problems.
5. Perform compliance monitoring services including budget monitoring and project site inspections and document progress and completion of projects, causes for delays in project completion from established timelines, or deviations from the scope of work to ensure procurement and contracting compliance.
6. Assist subrecipients with requests for project extensions or project change requests, if needed.
7. Provide reports related to assigned projects, by subrecipient, and by project.
8. Identify and flag potential duplicate service contracts and provide for fraud, waste, and abuse identification and remediation.
9. Perform compliance reviews of subrecipient projects, which entails examining subrecipient support documentation for subgrant expenditures, evaluating compliance with relevant statutes and regulations, including Uniform Grant Guidance and grant agreements and report the results.
10. Perform peer review analysis on projects assigned to other contractors or agency staff.
11. Assist in training Department staff and in conducting programmatic policy and procedure reviews.
12. Provide subrecipient assistance to include the development of appropriate project financial controls and reports and training/assistance on use of applicable grants management applications.
13. Perform other grant administration related duties as assigned.

Assignments

Each assignment is accompanied by an individual budget as computed by the pricing schedule. Any changes in budget must be approved in writing in advance.

Deliverables (D.1)

FREQUENCY/ DUE DATE	DESCRIPTION	REPORT - DELIVERABLE	AUTHORITY
Section D – Reports and Deliverables			
Quarterly	Collected information from subrecipients on each assigned project	Quarterly FEMA Reports	Contract, Section C.3.A.1
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.3.A.1
Weekly	Includes any requests from subrecipient for scope changes, scheduled meetings, any significant issues, problems or non-compliance matters.	Weekly Progress Report Summary	Contract, Section C.3.A.1
As needed	Includes project overruns or under-runs, scope changes, request for reimbursement, time extensions, appeals, closeouts	Requests for grant amendments	Contract, Section C.3.A.1

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.3.A.1
As needed	As Assigned	Ad hoc reporting	Contract, Section C.3.A.1
Ten business days after completion and acceptance of draft	Upon completion of compliance review	Compliance Review Final Report	Contract, Section C.3.A.1

Approval/Acceptance (E.1)

The Department has the right to inspect and validate all products, services and deliverables called for by this contract, to the extent practicable at all times and places during this contract. The contractor is required to allow for routine review of subrecipient 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 (G.2)

Contractor will bill monthly for authorized fees as triggered by either Requests for Reimbursements (RFRs) processed, or by completed project close-outs. For RFR processing, a retainage of 20 percent of the budget amount will be withheld until completion of project closeout. At project closeout, the Contractor may invoice for the remaining 20 percent retainage. For compliance review projects and small projects, the Department will pay the contractor on the basis of itemized invoice detailing the projects closed with the state.

Contract Risk Management (G.3.4-8)

This contract is a no minimum, non-exclusive, as needed, as requested contract and as such the vendor is not 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.

The 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 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 Deliverables (D.1); failure to respond to audit reports as set forth in the section on Inspection of Services (E.1); and failure to correct identified areas of non-compliance to the satisfaction of the Department.

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 to notify DPS anytime a staff person is to be removed from the project so that all access can be cancelled. Key personnel cannot be removed without DPS permission and contractor is required to remove any staff deemed unsuitable by DPS.

Contractors must allow for inspection and audit.

DPS may suspend or terminate for convenience, for failure to perform, 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 the 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 GMS related to routine FEMA grant related and all subrecipient 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.

Subrecipient 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 SAP.

Subrecipient Recordkeeping

Subrecipient will be required to maintain project records until the expiration of the appropriate retention period. This includes records related to 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 200 applicants for this grant and approximately 900 projects. However, we anticipate that a majority of the projects will be small with a large number of category A and B. There will be a number of large projects for bridge, water facilities and dam rebuilding and major repairs that will have planning, engineering and construction scope.

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 will collect from the subrecipient cost documents, proof of payment, certification of no duplication of benefits, and a project closeout certificate. No site 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 by FEMA upon obligation. For projects 100 percent complete when written, TDEM must receive from the subrecipient the certificate of completion and the certification of no duplication of benefits prior to the state closeout.

Projects not complete when written will be placed into monitoring. For those subrecipients electing to participate in “Subrecipient Certification for Small Projects with Category B-G Completed Work,” TDEM will accept FEMA’s certification forms in lieu of TDEM’s Project Completion and Certification Report and Duplication of Benefits Certification.

Closeout of the Disaster Grant

Based on the scope of the disaster as outlined above, TDEM anticipates that all projects will be completed by February of 2023 and that the disaster can be closed by June of 2023. This may need to be adjusted once all projects have been approved and assigned completion dates.

Management Cost Interim Policy

As stated in the SAP, the state will receive a maximum management cost rate of up to 12 percent, of which up to 7 percent is for the Recipient and up to 5 percent is for Subrecipients. The management cost rate is based on actual costs incurred. The total award amount, for the purposes of calculating the management cost contribution, is the actual eligible PA project costs (Federal and non-Federal share), after insurance and any other reductions.

Pre-Award Costs

In accordance with 2 CFR §200.458, TDEM will request pre-award costs for Preliminary Damage Assessments (PDA’s).

Budget

Under the MCIP, no 120-day budget will be submitted, however TDEM will request the initial seven percent of the per capita for initial funding.

Fiscal Year 2019 Per Capita threshold for the state of Texas is \$37,718,341.50

Current Thresholds

Project Type	Threshold
Large Project Threshold	\$128,900
Minimum Project Threshold	\$3,200
Micro Purchase Threshold	\$10,000
Simplified Acquisition Threshold	\$250,000