

As a result of a major disaster, the magnitude of the event may necessitate contracting for debris removal labor and equipment for local governments. During this type of situation, many communities can become overwhelmed by enormous amounts of debris generated, not comply with proper procurement requirements.

There appears to be some confusion regarding the awarding of some debris contracts without competitive bidding. The reason often cited for such actions is that the contract is for emergency work, and competitive bidding is not required.

Part 13 of 44 CFR is entitled "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments". These requirements apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or regulations authorized in accordance with the exception provisions of Section 13.6. In essence, these regulations apply to all Federal grants awarded to State, tribal and local governments.

Non-competitive proposals awarded under emergency requirements are addressed as follows:

"Procurement by non-competitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and the following circumstances applies:

(B) The public exigency or emergency of the requirement will not permit a delay resulting from competitive solicitation." (44 CFR Part 13.36(d)(4)(1)(B))."

Simply stated, non-competitive contracts can be awarded only if the emergency is such that the contract award cannot be delayed by the amount of time required to obtain competitive bidding.

FEMA's division of disaster work into "emergency" and "permanent" is generally based on the period of time during which the work is to be performed, and not on the urgency of that work. Therefore, the award of non-competitive contracts cannot be justified on the basis of "emergency work", as defined by FEMA.



DEBRIS REMOVAL CONTRACTS

- ☞ The definition of "emergency" in contracting procedures is NOT the same as FEMA's definition of "emergency work".
- ☞ Contracts for "emergency work" does not mean that contracts can be awarded without competitive bidding.
- ☞ FEMA will only reimburse for reasonable costs.
- ☞ All activities in the contract must be required for debris removal and are eligible for reimbursement.



No contractor has the authority to make determinations on eligibility, acceptable emergency contracts or definitions of emergency work.



Debris Removal Contracts



DEBRIS REMOVAL CONTRACT ISSUES

Contract Activities:

- Debris management planning
 - o Not eligible is done prior to a disaster
- Clearance, removal & hauling
 - o Separate contracts may be used
- Demolition
- Debris management sites
 - o Overall operations or specific activities
- Recycling or volume reduction activities
- Removal & disposal of household hazardous waste, asbestos, etc.
- Final disposition
- Monitoring
- Overall project management
 - o Reimbursement depends on magnitude of event & impact to community, costs, etc.



Contract Requirements

- Must follow legal procurement procedures
- Must meet or exceed federal procurement standards for FEMA reimbursement
- Must use competitive bidding
- Scope-of-work must be well-defined
- Address each task specifically
- Require detailed documentation
- Include termination for convenience clause
- Specify a reasonable period of performance
- Make own debris estimate
- Fully document debris removal process

Contract Types

- Time & Materials
 - o Used during first 70 hours following an emergency
 - o Cannot exceed 70 hours of actual time for all contracts without a waiver from FEMA
- Unit Price
 - o Requires full-time trained third-party contract monitors
 - o Requires all trucks to be accurately measured & numbered
 - o Requires all truckloads to be documented.
- Lump Sum
 - o Area Method:
 - Contractor shoulders most of the risk
 - Requires clear, definable scope of work
 - Difficult to estimate amounts of debris
 - o Pass Method:
 - Scope of work more definitive
 - Minimum labor required for management
 - Public must cooperate



Additional Resources

-  Disaster Plan, California Integrated Waste Management Board (CIWMB)
-  Debris Management Guide, FEMA
-  Debris Operations Job Aid, FEMA
-  [Debris Operations Clarification Fact Sheet, FEMA](#)
-  Public Assistance Policy Guide, FEMA
-  Public Assistance Guide, FEMA
-  [Debris Management Plan Flyer](#)
-  [Private Property Debris Removal Flyer](#)

Web Sites

- www.oes.ca.gov
- www.fema.gov
- www.ciwmb.ca.gov



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Regulations: 44 CFR, Section 206.224.
Stafford Act, Sections 403 & 407