



# FEMA Reimbursements - New Regulations...

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# What is 2CFR200?

PDF |

- Title 2 - Grants and Agreements
  - Parts 1 - 5800. January 1, 2014.
    - Toc - Table Of Contents
  - ▣ Subtitle A - Office of Management and Budget Guidance for Grants and Agreements (Parts 1 - 200)
    - Toc - Table Of Contents
    - ▣ Chapter I - OFFICE OF MANAGEMENT AND BUDGET GOVERNMENTWIDE GUIDANCE FOR GRANTS AND AGREEMENTS (Parts 2 - 199)
    - ▣ Chapter II - OFFICE OF MANAGEMENT AND BUDGET GUIDANCE (Part 200)
      - Toc - Table Of Contents
      - ▣ Subchap - Reserved (Part 200)
      - ▣ Part 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
        - Appendix I to Part 200 - Full Text of Notice of Funding Opportunity
        - Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
        - Appendix III to Part 200 - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of...
        - Appendix IV to Part 200 - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit...
        - Appendix V to Part 200 - State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans
        - Appendix Vi to Part 200 - Public Assistance Cost Allocation Plans
        - Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals
        - Appendix VIII to Part 200 - Nonprofit Organizations Exempted From Subpart E-Cost Principles of Part 200
        - Appendix IX to Part 200 - Hospital Cost Principles
        - Appendix X to Part 200 - Data Collection Form (Form SF-SAC)
        - Appendix XI to Part 200 - Compliance Supplement
      - ▣ Subpart A - Acronyms and Definitions
      - ▣ Subpart B - General Provisions
      - ▣ Subpart C - Pre-Federal Award Requirements and Contents of Federal Awards
      - ▣ Subpart D - Post Federal Award Requirements
      - ▣ Subpart E - Cost Principles
      - ▣ Subpart F - Audit Requirements
    - ▣ Part 1 - ABOUT TITLE 2 OF THE CODE OF FEDERAL REGULATIONS AND SUBTITLE A
    - ▣ Subtitle B - Federal Agency Regulations for Grants and Agreements (Parts 376 - 5800)

<https://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200.pdf>

- Effective on December 26, 2014.

Visit our SPO page with all the resource links you need at:

<http://spo.hawaii.gov/for-state-county-personnel/disaster-preparedness-procurement/fema-reimbursement/>

Why? It can take years to be reimbursed if you get it wrong, or worse, you'll have to pay it back! Millions or even Billions!

It's got to do with FEMA!

### Impact of new Regs:

- Cannot use current contracts for disasters if you want FEMA money, including NASPOVP contracts.
- State may be able to rectify most of their current contracts,
- Counties will probably have to re-procure everything!





# FEMA Regs and Resources

- ▶ PDAT:  
<https://www.fema.gov/procurement-disaster-assistance-team>
- ▶ Handouts:
  - ▶ 2CFR200 w Appendices
  - ▶ FEMA Checklist
  - ▶ PDAT Manual

## Procurement Disaster Assistance Team

FEMA's Office of the Chief Counsel established the Procurement Disaster Assistance Team (PDAT) in 2014 to assist disaster assistance applicants with adhering to the Federal procurement standards, which can be found at Title 2 of the Code of Federal Regulations (C.F.R.) sections (§§) 200.317 through 200.326, as well as FEMA policies and guidance associated with FEMA's Public Assistance grants. PDAT's mission is to ensure that FEMA personnel and nonprofit, local, state, tribal, regional, and national emergency management personnel are familiar with the Federal procurement standards applicable to FEMA's Public Assistance disaster grants, in order to facilitate compliance with these standards, and reduce the likelihood of disallowance for failure to adhere to these requirements.

PDAT is currently comprised of nine attorneys tasked with deploying to active disasters and with proactively developing and providing training and guidance materials. ***While PDAT provides guidance on the rules for procurement under grants, neither this site, nor the materials found on this site, should be considered legal advice.***

▶ [Expand All Sections](#)

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▶ [PDAT Deployments To Active Disasters](#)

▶ [PDAT In Steady State](#)

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▶ [Procurement Under Grants 2.0 Webinar Series](#)

▶ [PDAT Resources](#)

▶ [Other Resources](#)



States

Counties

2CFR200

### PROCUREMENT STANDARDS

#### § 200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions.

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Redundant! Already in App II (K)!

#### § 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

§ 200.318 General procurement standards.

§ 200.319 Competition.

§ 200.320 Methods of procurement to be followed.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

§ 200.322 Procurement of recovered materials.

§ 200.323 Contract cost and price.

§ 200.324 Federal awarding agency or pass-through entity review.

§ 200.325 Bonding requirements.

§ 200.326 Contract provisions.



STATES & COUNTIES

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. → PDAT Field Manual P86
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. → PDAT Field Manual P87
- (C) Equal Employment Opportunity. → Construction Only >\$2,000
- (D) Davis-Bacon Act and the Copeland "Anti-Kickback" Act → N/A for FEMA
- (E) Contract Work Hours and Safety Standards Act. → >\$100K Mechanics or Laborers
- (F) Rights to Inventions Made Under a Contract or Agreement. → N/A for FEMA
- (G) Clean Air Act and the Federal Water Pollution Control Act. → > \$150K PDAT Field Manual P96
- (H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. → PDAT Field Manual P97 SPO has determined application > \$10,000
- (I) Debarment and Suspension. → SAM.gov Excluded Parties List, PDAT Field Manual P96
- (J) Byrd Anti-Lobbying Amendment. → > \$100K Bidders must submit cert
- (K) See § 200.322 Procurement of recovered materials. → N/A for Services >\$10K



**Top 10 Procurement Under Grant Mistakes  
Leading to Audits and Potential Loss of FEMA Public  
Assistance Funding**

1. Engaging in a noncompetitive procurement (i.e., sole-sourcing) without carefully documenting how the situation has created an urgent need to perform the work sooner than a competitive procurement process would allow.
2. Continuing work under a sole-source contract after the urgent need (see #1) has ended, instead of transitioning to a competitively procured contract.
3. Piggybacking onto another jurisdiction's contract in a situation that doesn't allow noncompetitive procurement (see #1) or where the other contract is materially different in terms of scope or requirements. Piggybacking is rarely allowable.
- ★ 4. Awarding a "time-and-materials" contract without a ceiling price that the contractor exceeds at its own risk and without documenting why no other contract type is suitable.
5. Awarding a "cost-plus-percentage-of-cost" or "percentage-of-construction-cost" contract.
6. Not including the required contract clauses (available online at the below website under "PDAT Resources" menu).
- ★ 7. Including a geographic preference in a solicitation (i.e., giving an advantage to local firms).
- ★ 8. Not making and documenting efforts to solicit small businesses, minority businesses, and woman's business enterprises.
- ★ 9. Conducting a procurement exceeding \$150,000 without conducting a detailed cost or price analysis.
10. Not carefully documenting all steps of a procurement to create a record if questions arise potentially years later.



# Good Luck and Do it Now!

- ▶ Please contact the State Procurement Office with any questions you may have – we stand ready to help!
- ▶ Main Telephone: 808-586-0554
- ▶ Administrator Telephone: 808-586-4700
- ▶ Email: [Sarah.Allen@Hawaii.gov](mailto:Sarah.Allen@Hawaii.gov)