

# Purchasing Under a FEMA Award: Managing Fraud Risks

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Federal Emergency Management Agency (FEMA) grant programs are subject to the Federal Procurement Standards found at [2 C.F.R. §§ 200.317 – 200.327](#). This fact sheet is intended to help FEMA award recipients and subrecipients understand common examples of procurement fraud, recipient responsibilities, and how to report fraud and suspicious activities.

## Procurement Fraud

Procurement fraud can happen at various steps in the purchasing process. The [Generally Accepted Government Auditing Standards \(GAGAS\)](#) describes fraud as an illegal act involving the obtaining of something of value through willful misrepresentation. To reduce the risk of fraud, it is important that FEMA grant award recipients and subrecipients understand and comply with the Federal Procurement Standards. By understanding these standards, recipients and subrecipients can protect themselves from procurement fraud by learning how to identify, mitigate, and report suspicious activity related to fraud.

## Common Examples of Fraud Throughout the Procurement Process

Detecting procurement fraud can be difficult for various reasons. When recipients and subrecipients make purchases under a FEMA award, they should recognize potential fraud risks and take precautions to prevent fraud, waste and abuse. The following are common examples of procurement fraud that can occur during the various procurement phases:

- **Corrupt Influence and Kickbacks:** This form of fraud involves manipulating the procurement process for personal gain. Examples include buying more items than are needed, selecting unqualified suppliers, or excluding qualified bidders to restrict competition. A perpetrator might also tailor or narrow specifications to ensure only their chosen bidder can be awarded a contract. Payments promised to influence the recipient or subrecipient for a successful bid can be monetary but can also take the form of goods or services in kind, such as gifts, potential career opportunities, sexual favors, and overpaying for reciprocal purchases.
- **Bid Rigging:** This form of fraud occurs when competitors collude to predetermine the winner of a bidding process. This can often lead to inflated prices or substandard work. Bid rigging takes many forms, but conspiracies usually fall into one or more of the following categories: bid suppression, complementary bidding, and bid rotation.



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- **Billing Fraud:** This involves the intentional submission of false, duplicate or inflated invoices by a supplier or contractor. It can also happen via collusion with the buyer representatives, who profit in some way from the fraud.
- **Delivery Fraud:** This occurs when contractors intentionally deliver subpar goods or services, knowing that the goods fail to meet the quality expected or required by the contract. This can include delivering substandard or counterfeit items, providing fewer items than invoiced, or not delivering anything at all while still collecting payment.
- **Problematic Contract Types:** Certain contract types are more susceptible to fraud due to the contract having a higher likelihood of unnecessary or even fraudulent cost overruns. These contract types, such as time-and-materials and cost plus a percentage of cost contracts, incentivize contractors to increase costs, as their profit is directly tied to those expenses.

## The Federal Procurement Standards

For a FEMA award recipient or subrecipient to determine which federal rules to follow, it must first determine if it is a state, Indian Tribe, local government, or nonprofit. Below are the Federal Procurement Standards applicable to financial assistance awards with a federal award date or disaster declaration date on or after Oct. 1, 2024.

### Federal Procurement Standards Applicable to States, Indian Tribes, Local Governments and Nonprofits

- **States, Indian Tribes, the District of Columbia, U.S. territories and their agencies and instrumentalities:** These entities must follow their own documented procurement policies and procedures when purchasing under a FEMA award pursuant to [2 C.F.R. § 200.317](#). These entities must also comply with requirements for domestic preferences ([2 C.F.R. § 200.322](#)), the procurement of recovered materials ([2 C.F.R. § 200.323](#)), and ensure that all necessary contract provisions are included in their contracts ([2 C.F.R. § 200.327](#)). **NOTE:** Indian Tribes are not subject to the procurement of recovered materials requirements at 2 C.F.R. § 200.323.
- **Local governments and nonprofits:** These entities must have written documented procurement policies and procedures, which reflect applicable local, state or tribal law, and ensure compliance with the Federal Procurement Standards at [2 C.F.R. §§ 200.318 – 200.327](#).

**NOTE:** FEMA may apply remedies if a recipient or subrecipient does not comply with the Federal Procurement Standards, as appropriate, in accordance with its authorities found at [2 C.F.R. § 200.339](#). Additionally, all recipients and subrecipients must ensure compliance with the Cost Principles at [2 C.F.R. Part 200 Subpart E](#), including the requirement to ensure that costs are reasonable as defined in [2 C.F.R. § 200.404](#).

One of the objectives of the Federal Procurement Standards is to reduce the risk of fraud, waste and abuse. Although not an exhaustive list, the Federal Procurement Standards listed below (further explained in the [Procurement Under Grants Policy Guide \(PUGPG\)](#)) help local governments and nonprofits identify and combat procurement fraud:

**Table 1: Federal Procurement Standards & Purposes Applicable to Local Governments and Nonprofits**

Requirement	Purpose
<p><b>Full and Open Competition</b></p>	<p>All procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition and consistent with the competition standards at 2 C.F.R. § 200.319 and methods of procurement at 2 C.F.R. § 200.320. This rule is critical to helping prevent favoritism, collusion, fraud, waste and abuse in the procurement process. See <a href="#">2 C.F.R § 200.319</a>.</p>
<p><b>Contractor Oversight</b></p>	<p>Local governments and nonprofits must maintain oversight to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. This oversight includes verifying that contractors adhere to the contractual obligations regarding the scope of work, that invoices accurately reflect the work performed, and that services are delivered in a timely manner. See <a href="#">2 C.F.R § 200.318(b)</a>.</p>
<p><b>Conflicts of Interest</b></p>	<p>Employees, officers, agents or board members with a real or apparent conflict of interest are prohibited from participating in the selection, award or administration of a contract supported by the federal award. This prohibition ensures, at a minimum, that employees involved in the award and administration of contracts are free of undisclosed conflicts of interest. See <a href="#">2 C.F.R § 200.318(c)(1)</a></p>
<p><b>Organizational Conflicts of Interest</b></p>	<p>An organizational conflict of interest occurs when the local government or nonprofit, because of relationships with a parent company, affiliate or subsidiary organization, is unable or appears unable to be impartial in a procurement action involving a related organization (see <a href="#">2 C.F.R § 200.318(c)(2)</a>). These conflicts can be broadly summed up as follows:</p> <ul style="list-style-type: none"> <li>▪ <b>Impaired Objectivity:</b> This arises when a contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to the local government or nonprofit due to other relationships, contracts or circumstances.</li> <li>▪ <b>Unequal Access to Information:</b> This occurs when a contractor has access to nonpublic information through another agreement with local governments or nonprofits, and that information may provide the contractor with a competitive advantage.</li> <li>▪ <b>Biased Ground Rules:</b> This arises when a contractor sets the ground rules for a contract as part of its work under another agreement with the local government or nonprofit. For example, a contractor who prepares a statement of work or specifications for a local government or nonprofit and then later competes for that contract. This creates biased ground rules by restricting competition in favor of itself by drafting the specifications in such a way that will make their own later bid the most attractive. See <a href="#">2 C.F.R § 200.319(b)</a>.</li> </ul>

<b>Prohibition on Gifts from Contractors</b>	The solicitation and acceptance of gifts presents a fraud risk to the recipient or subrecipient. The officers, employees and agents of local governments and nonprofits may not solicit or accept gifts, gratuities, favors or anything of monetary value from contractors or parties to subcontracts. This includes entertainment, hospitality, loans and forbearance. See <a href="#">2 C.F.R § 200.318(c)(1)</a> .
<b>Cost or Price Analysis</b>	Local governments and nonprofits must perform and document a cost or price analysis for every procurement action and contract modifications above the federal Simplified Acquisition Threshold (SAT), which as of Oct. 1, 2025, is \$350,000 (see <a href="#">Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds</a> ). Performing a cost or price analysis provides many benefits to a local government or nonprofit, such as reducing the likelihood of unreasonably high or low prices, contractor misrepresentations, and pricing errors relative to the scope of work. See <a href="#">2 C.F.R § 200.324</a> .
<b>Time-and-Materials (T&amp;M) Contracts</b>	A T&M contract provides no incentive for the contractor to control costs or find labor efficiencies, because the contractor's profit increases as the labor hours increase. To prevent fraud or abuse, this contract type is only allowable for local governments and nonprofits after determining that no other contract type is suitable and including a contract ceiling price that the contractor exceeds at their own risk. Additionally, because this is a risky contract type, local governments and nonprofits must maintain a high degree of oversight. See <a href="#">2 C.F.R § 200.318(j)</a> .
<b>Cost Plus a Percentage of Cost (CPPC) Contracts</b>	The Federal Procurement Standards prohibit local governments and nonprofits from using a CPPC contract. This is a cost-reimbursement contract that commits the local governments and nonprofits to pay the contractor an amount (in the form of either profit or cost), undetermined at the time of the contract award, based on a percentage of future costs. See <a href="#">2 C.F.R § 200.324(c)</a> .

## Awarding Only to Responsible Contractors

Local governments and nonprofits must ensure that contracts are awarded only to responsible contractors who possess the ability to successfully perform under the terms and conditions of a proposed procurement. In accordance with [2 C.F.R. § 200.318\(h\)](#), local governments and nonprofits must consider contractor integrity, public policy compliance, proper classification of employees, past performance record, and financial and technical resources when making a responsibility determination.

- **Contractor Integrity:** A contractor must have a satisfactory record of integrity and business ethics. To assess a contractor's integrity, local governments and nonprofits may consider whether the contractor has:
  - Committed fraud or a criminal offense related to obtaining or attempting to obtain a contract;
  - Committed embezzlement, theft, forgery, bribery, falsification or destruction of records, or tax evasion;

- Committed any other offense indicating lack of business integrity or business honesty that seriously and directly affects the present responsibility of the contractor; or
- Been indicted for any of the above-mentioned offenses.
- **Public Policy:** A contractor must comply with federal, state, local and tribal public policies. Local governments and nonprofits should review the contractor's past and current compliance with matters such as applicable prevailing wage laws, regulations and executive orders.
- **Proper Classification of Employees:** Local governments and nonprofits must consider proper classification of employees pursuant to the [Fair Labor Standards Act, 29 U.S.C. 201, Chapter 8](#).
- **Record of Past Performance:** A contractor must be able to demonstrate sufficient resources (i.e., personnel, equipment) and adequate prior experience to perform the required work. For example:
  - Having the necessary organization, accounting and operational controls;
  - Adhering to schedules, including the administrative aspects of performance;
  - Exhibiting business-like concern for the interest of the customer; and
  - Meeting quality requirements.
- **Financial and Technical Resources:** Contractors must accurately demonstrate they have the financial and technical resources to complete the job.
- **Suspension and Debarment:** Local governments and nonprofits must ensure the contractor is not suspended or debarred as required by [2 C.F.R. Part 180](#). Recipients and subrecipients must not award to parties listed on the government-wide exclusions in the System for Award Management (SAM), which can be found at [www.sam.gov/SAM](http://www.sam.gov/SAM). **NOTE:** All FEMA award recipients and subrecipients must include a contract provision for contracts and subcontracts more than \$25,000 complying with suspension and debarment regulations.

## Report Fraud

FEMA award recipients and subrecipients play a critical role in helping to identify fraud and are highly encouraged to report suspicious activities at any time during the procurement process by contacting:

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| ▪ <b>FEMA Fraud and Investigation Division</b><br><a href="mailto:StopFEMAFraud@fema.dhs.gov">StopFEMAFraud@fema.dhs.gov</a><br>1-866-223-0814 | ▪ <b>DHS OIG Hotline</b><br><a href="https://hotline.oig.dhs.gov/#step-1">https://hotline.oig.dhs.gov/#step-1</a><br>1-800-323-8603 |
| ▪ <b>FEMA Suspension and Debarment</b><br><a href="mailto:femasd@fema.dhs.gov">femasd@fema.dhs.gov</a>   | ▪ <b>U.S. Department of Justice National Center for Disaster Fraud</b><br><a href="#">Complaint Form</a><br>1-866-720-5721          |