

U.S. Department of Homeland Security  
Region II  
Jacob K. Javits Federal Office Building  
26 Federal Plaza, Room 1807  
New York, New York 10278



**FEMA**

April 13, 2020

Deputy Commissioner Anne Bink  
Alternate Governor's Authorized Representative  
New York State Division of Homeland Security and Emergency Services  
1220 Washington Avenue  
Building 7A, Floor 4  
Albany, New York 12242

RE: FEMA-4480-DR-NY  
New York State Division of Homeland Security and Emergency Services  
Non-Congregate Sheltering Request

Dear Deputy Commissioner Bink:

This letter supersedes Federal Emergency Management Agency's (FEMA) April 9, 2020 response to New York State Division of Homeland Security and Emergency Services' (DHSES) April 6, 2020 request for FEMA approval to use non-congregate sheltering in response to the Coronavirus Disease 2019 (COVID-19) pandemic under major disaster declaration FEMA-4480-DR-NY.

Funding for eligible emergency protective measures taken to respond to the COVID-19 disaster at the direction or guidance of state or local public health officials may be provided under the Public Assistance Program pursuant to Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act if necessary to save lives, protect improved property or public health and safety, and/or lessen or avert the threat of catastrophes.

Based on a review of DHSES' request and supporting documentation and information provided, FEMA conditionally approves the request for the use of emergency, non-congregate sheltering based on the April 5, 2020 State of New York Department of Health Non-Congregate Shelter (Order). According to the Order, non-congregate shelters will be implemented by state and local agencies, local officials or healthcare private-not-for-profit (PNP) organizations to minimize the spread of COVID-19. It should be noted that PNP organizations generally do not have the legal responsibility to shelter individuals in response to a public health threat. FEMA considers the Order coupled with DHSES' request a State-wide request for healthcare PNP organizations to assist with the non-congregate sheltering effort. Therefore, FEMA will reimburse costs associated with non-congregate sheltering implemented by a PNP organization, but only through a legally responsible government entity as the eligible Applicant, not directly to the PNP.

The Order identifies the following populations for which non-congregate sheltering will be available:

1. Individuals that have tested positive for COVID-19 and require isolation but not hospitalization and who:
  - a. Do not have an appropriate home setting, or
  - b. Have a medically vulnerable individual in the home setting where they would otherwise be isolated.
2. Healthcare and first responders interacting with presumptive or confirmed positive COVID-19 patients in an occupational setting, to include testing sites; and
3. Individuals that are or were supported by a congregate care shelter facility, to include:
  - a. Homeless persons,
  - b. Domestic violence, and
  - c. Elder abuse survivors.

Consistent with the Order, DHSES requests approval to implement non-congregate sheltering State-wide for the populations listed above for a period of 30 days and states that the need may go beyond the initial 30-day period. Further, DHSES states that after considering all non-congregate sheltering options, it finds that “hotels provide applicants the most effective and efficient approach to providing non-congregate sheltering for the at-risk population listed.”

FEMA’s approval of this request is subject to and conditioned by the following:

1. FEMA approves State-wide non-congregate sheltering using hotels for the populations listed above.
2. This approval is limited to emergency non-congregate sheltering costs that are reasonable and necessary to address the public health needs resulting from FEMA-4480-DR-NY.
3. This approval is limited to costs associated with sheltering individuals from the date of this letter through May 10, 2020, unless the public health needs should sooner terminate. DHSES must obtain FEMA’s approval for any time extensions, which should include a detailed justification for the continuing need for emergency non-congregate sheltering.

Additionally,

- Each agency or organization implementing a non-congregate sheltering program must follow FEMA’s Procurement Under Grants Conducted Under Exigent or Emergency Circumstances guidance and include a termination for convenience clause in its contracts for sheltering and related services, such as food, security services, and care for those with disabilities or access and functional needs.
- FEMA will not approve Public Assistance funding that duplicates funding by another federal agency, including the U.S. Department of Health and Human Services or Centers for Disease Control and Prevention.
- Each agency or organization implementing non-congregate sheltering must comply with, and enable FEMA to comply with, applicable environmental and historic preservation laws, regulations, and executive orders or funding may be jeopardized.

Each agency or organization implementing a non-congregate sheltering program must maintain tracking mechanisms to provide sufficient data and documentation to establish the eligibility of costs under Public Assistance (including the need for non-congregate sheltering of each individual, length of stay, and costs). As with any activity, lack of sufficient supporting documentation may result in FEMA determining that some or all of the costs are ineligible.

Lastly, while this approval applies to all non-congregate sheltering in New York State, each applicant must submit its own request for funding for non-congregate sheltering, including an estimate of the number of individuals that will require sheltering and explanation of how that number was derived. Further, if an applicant chooses an option other than hotels or motels for its non-congregate sheltering plan, the request must also include an analysis and justification for the option ultimately chosen. FEMA does not mandate that applicants pursue a specific option or options, but FEMA will only approve PA funding for cost-effective and practical options.

Should you have any questions or require further assistance, please contact Ms. Claude Hyacinthe, Recovery Division Director at [claude.hyacinthe@fema.dhs.gov](mailto:claude.hyacinthe@fema.dhs.gov).

Sincerely,



Thomas Von Essen  
Regional Administrator  
FEMA Region II