



FEMA

INFORMATION PAPER DISPOSITION OF EQUIPMENT AND SUPPLIES EITHER PURCHASED WITH PUBLIC ASSISTANCE FUNDING OR PROVIDED TO A STATE THROUGH DIRECT FEDERAL ASSISTANCE

I. Purpose

The purpose of this document is to summarize the disposition requirements set forth in 2 C.F.R. §§ 200.313 and 314 and FEMA policy concerning equipment and supplies purchased by an applicant under a Public Assistance grant or purchased by FEMA and conveyed (ownership transferred) to the applicant through the Recipient under direct federal assistance for Public Assistance under a major disaster or emergency declaration for Coronavirus Infectious Disease 2019 (“COVID-19”). This is not a policy document. This document is intended only to provide general information to Public Assistance applicants in FEMA Region II and does not change, modify, or in any way supersede applicable regulations and/or FEMA policy.

II. Background

- A. Declarations for COVID-19. The President declared a nationwide emergency on March 13, 2020, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) as a result of COVID-19. In the month that followed, he also declared major disasters for New Jersey, New York, Puerto Rico, and the U.S. Virgin Islands: FEMA-4488-DR-NJ, FEMA-4480-DR-NY, FEMA-4493-DR-PR and FEMA-4513-DR-VI. The St. Regis Mohawk Tribe also opted in to the nationwide emergency declaration: FEMA-3504-EM.
- B. Public Assistance Category B (Emergency Protective Measures). The emergency declaration and each of the major disaster declarations authorized Public Assistance Category B for all areas in the states, including territories, in FEMA Region II. Under Public Assistance Category B, FEMA may provide financial assistance for an eligible state, local, or tribal government, and certain private, nonprofit organizations (collectively, “applicants”) to reimburse eligible costs of taking emergency protective measures to respond to COVID-19 at the direction or guidance of public health officials. FEMA may also provide direct federal assistance under Public Assistance Category B at the request of a state or tribe to assist applicants in responding to COVID-19.
- C. Equipment. There may be instances where an applicant does not have sufficient

equipment to effectively perform emergency protective measures. If the applicant purchases an item of equipment that it justifiably needs to respond effectively to COVID-19, FEMA may provide financial assistance under Public Assistance Category B for the purchase of the equipment. FEMA also may provide direct federal assistance by purchasing equipment and conveying (transferring title) of that item of equipment to the state or tribe.¹ PAPPG, ¶ V.B. Equipment is tangible personal property (including information technology systems) that (a) has a useful life of more than one year and (b) a unit cost equal or greater than the lesser of \$5,000 or the capitalization level established by the Public Assistance applicant for financial statement purposes. 2 C.F.R. § 200.33. Examples of equipment include durable medical equipment and vehicles.

- D. **Supplies.** There may also be instances where an applicant does not have enough **supplies** to effectively perform emergency protective measures. If the applicant purchases supplies that it justifiably needs to effectively respond to COVID-19, FEMA may provide financial assistance under Public Assistance Category B for the purchase of the supplies. PAPPG, ¶ V.D. FEMA also may provide direct federal assistance by purchasing supplies and transferring title of those supplies to a Recipient. Supplies are all tangible personal property other than those that meet the definition of equipment. 2 C.F.R. § 200.94. Examples of supplies include consumable medical supplies and food.
- E. **Federal Financial Assistance.** The item of equipment or supplies purchased by an applicant for which FEMA provides financial assistance or the item of equipment or supplies purchased by FEMA and conveyed to the state or tribal government through direct federal assistance are Federal financial assistance under the Federal award for Public Assistance and, therefore, the disposition requirements of 2 C.F.R. §§ 200.313 and 314 apply. This includes items of equipment and supplies that were donated to FEMA by a third party and then conveyed to the applicant through a state or tribal government as direct federal assistance.

III. **Equipment**

- A. **State Applicants.** A state applicant (i.e., a state agency or instrumentality; see 2 C.F.R. § 200.90 and 44 C.F.R. § 206.2) must use, manage, and dispose of equipment acquired with Public Assistance funding or provided by FEMA under direct federal assistance in accordance with state law and procedures. 2 C.F.R. § 200.313(b); PAPPG, ¶ V.E.1.
- B. **Non-State Applicants.** The following apply to all non-State applicants, which include tribal and local governments and private, nonprofit organizations. 2 C.F.R. § 200.313(a), (c) –(e); PAPPG, ¶ V.E.1.

¹ FEMA may also provide direct federal assistance by loaning an item of equipment to an applicant that does not involve the transfer of ownership of the item of equipment to the applicant. This Information Paper does not discuss such loans of personal property, all of which must generally be returned to FEMA at the end of the period of performance. See 2 C.F.R. § 200.312.

1. The applicant must use the equipment purchased with Public Assistance funding or transferred by FEMA under direct federal assistance to perform emergency protective measures as long as needed to respond to COVID-19 whether or not the project continues to be supported by the Federal award.
2. When an individual item of equipment is no longer needed for emergency protective measures to respond to COVID-19, the applicant may use the item of equipment for other federally funded programs or projects in the following order of priority: (a) activities under a Federal award from FEMA; and (b) activities under a Federal award from other Federal awarding agencies.
3. When the individual item of equipment is no longer needed for emergency protective measures to respond to COVID-19 or for other activities currently or previously supported by a Federal awarding agency, applicants must calculate the current fair market value of the individual item of equipment.
4. If the current fair market value for the individual item of equipment is \$5,000 or less, the applicant may retain, sell, or otherwise dispose of the item of equipment with no further obligation to FEMA.
5. If the current fair market value for the individual item of equipment is greater than \$5,000, the applicant may retain or sell the item of equipment.
6. Retaining Equipment
 - i. Financial Assistance.
 - a. Public Assistance Grant for the Declaration Remains Open. If the applicant retains the item of equipment purchased with Public Assistance funding and the Public Assistance grant remains open, then FEMA will reduce the total Public Assistance project cost in EMMIE (which includes both the federal and non-federal share) by the current fair market value of the item of equipment and deobligate the federal share of that amount from the project subaccount in SmartLink. If there is not enough federal funding remaining in SmartLink in order for FEMA to deobligate the federal share, then the Recipient must reimburse the subaccount in the amount of funding necessary for the project funding in Smartlink to equal the federal share.² FEMA, after the Recipient has deposited the funding in the project subaccount, will move forward to deobligate the federal share.

² All obligations for major disaster declarations and the nationwide emergency declaration for COVID-19 are made at the Public Assistance project level and maintain their identity as associated with a particular project in IFMIS and the PMS. Thus, subsequent obligations, deobligations, payments, and offsets associated with a particular project are made with respect to the specific subaccount for that project.

- b. Public Assistance Grant for the Declaration is Closed. If the applicant retains the item of equipment purchased with Public Assistance funding and the Public Assistance grant for the declarations is closed, the Recipient must pay FEMA for the federal share of the current fair market value of the item of equipment. There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.
- ii. Direct Federal Assistance. If the applicant retains the item of equipment provided by FEMA through direct federal assistance, then the Recipient must pay FEMA for the federal share of the current fair market value.³ There are several possible mechanisms to make payment and the State should contact the Regional Public Assistance staff for instructions.

7. Selling Equipment

- i. Financial Assistance.
 - a. Public Assistance Grant for the Declaration Remains Open. If the applicant sells the item of equipment purchased with Public Assistance funding and the Public Assistance grant for the declaration remains open, then FEMA will (1) reduce the total Public Assistance project cost (which includes both the federal and non-federal share) by the sale proceeds for the item of equipment; (2) subtract from the Federal share of the Public Assistance project the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses; and (3) deobligate the federal share from the project subaccount in SmartLink. If there is not enough federal funding remaining for that project in SmartLink for FEMA to deobligate the federal share, then the Recipient must reimburse the project subaccount in the amount of funding necessary for the project funding in Smartlink to equal the federal share. FEMA, after the Recipient has deposited the funding in the subaccount, will move forward to deobligate the federal share.
 - b. Public Assistance Grant for the Declaration is Closed. If the applicant sells the item of equipment purchased with Public Assistance funding and the Public Assistance grant for the declaration is closed, then FEMA will (1) reduce the total Public Assistance project cost (which includes both the federal and non-

³ This payment will be in addition to any payment made by the State for the non-federal share of the original direct federal assistance for the item of equipment. For example, if FEMA originally transferred an item of equipment at a cost of \$20,000, then the State would be required to pay \$5,000 as the 25 percent nonfederal share. If that item of equipment is now being disposed by the non-state applicant and has a fair market value of \$10,000, then the State would be required to pay an additional \$7,500.

federal share) by the sale proceeds for the item of equipment; and (2) subtract from the Federal share of the Public Assistance project the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses. After FEMA makes this calculation, then the Recipient must pay FEMA the federal share. There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.

- ii. Direct Federal Assistance. If the applicant sells the item of equipment provided by FEMA through direct federal assistance, then the Recipient must pay FEMA for the federal share of the sale proceeds minus the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses.⁴ There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.

IV. Supplies

- A. The supplies use and disposition requirements are the same for State and non-State applicants. 2 C.F.R. § 200.314; PAPPG, ¶ V.E.2.
- B. The applicant must use the supplies purchased with Public Assistance funding or provided by FEMA under direct federal assistance to perform emergency protective measures as long as needed to respond to COVID-19, whether or not the project continues to be supported by the Federal award.
- C. When supplies are no longer needed for emergency protective measures to respond to COVID-19, the applicant may use the supplies for any other Federal award.
- D. When the supplies are no longer needed for any other Federal award, the applicant must calculate the total current market aggregate value of any residual inventory of unused supplies.
- E. If the total current market aggregate value of residual inventory of unused supplies is \$5,000 or less, the supplies may be retained, sold, or otherwise disposed with no further obligations to FEMA.
- F. If the total current market aggregate value of the residual inventory of unused supplies is greater than \$5,000, the applicant may retain or sell the supplies.
- G. Retaining Supplies
 1. Financial Assistance.

⁴ See footnote 3.

- i. Public Assistance Grant for the Declaration Remains Open. If the applicant retains the residual inventory of unused supplies purchased with Public Assistance funding and the Public Assistance grant remains open, then FEMA will reduce the total Public Assistance project cost in EMMIE (which includes both the federal and non-federal share) by the current market total aggregate value of the residual inventory of unused supplies and deobligate the federal share of that amount from the project subaccount in SmartLink. If there is not enough federal funding remaining in SmartLink in order for FEMA to deobligate the federal share, then the State must reimburse the subaccount in the amount of funding necessary for the project funding in Smartlink to equal the federal share. FEMA will, after the State has deposited the funding in the subaccount, move forward to deobligate the federal share.
 - ii. Public Assistance Grant for the Declaration is Closed. If the applicant retains the residual inventory of unused supplies purchased with Public Assistance funding and the Public Assistance grant is closed, the Recipient must pay FEMA for the federal share of the current market total aggregate value of the supplies. There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.
2. Direct Federal Assistance. If the applicant retains the residual inventory of unused supplies provided by FEMA through direct federal assistance, then the Recipient must pay FEMA for the federal share of the total current market aggregate value of the supplies.⁵ There are several possible mechanisms to make payment and the State should contact the Regional Public Assistance staff for instructions.

H. Selling Supplies

1. Financial Assistance.
 - i. Public Assistance Grant for the Declaration Remains Open. If the applicant sells the residual inventory of unused supplies purchased with Public Assistance funding and the Public Assistance grant for the declaration remains open, then FEMA (a) reduce the total Public Assistance project cost (which includes both the federal and non-federal share) by the sale proceeds for the supplies; (b) subtract the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses from the federal share; and (c) deobligate the federal share from the project subaccount in SmartLink. If there is not enough federal funding remaining in the project subaccount in SmartLink for FEMA to deobligate the federal share,

⁵ This payment will be in addition to any payment made by the State for the federal share of the original direct federal assistance for the supplies.

then the Recipient must reimburse the subaccount in the amount of funding necessary for the project funding in Smartlink to equal the federal share. FEMA, after the State has deposited the funding in the subaccount, will move forward to deobligate the federal share.

- a. Public Assistance Grant for the Declaration is Closed. If the applicant sells the residual inventory of unused supplies purchased with Public Assistance funding and the Public Assistance grant is closed, then FEMA will (1) reduce the total Public Assistance project cost (which includes both the federal and non-federal share) by the sale proceeds for the item of equipment; and (2) subtract from the Federal share of the Public Assistance project the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses. After FEMA makes this calculation, then the Recipient must pay FEMA the federal share. There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.
2. Direct Federal Assistance. If the applicant sells the residual inventory of unused supplies provided by FEMA through direct federal assistance, then the Recipient must pay FEMA for the federal share of the sale proceeds minus the lesser of \$500 or ten percent of the sale proceeds for the applicant's selling and handling expenses. There are several possible mechanisms to make payment and the Recipient should contact the Regional Public Assistance staff for instructions.

V. Definitions

- A. Applicant. Applicant means a state agency, including territorial agencies; local or tribal government, or eligible private, nonprofit organization. 44 C.F.R. § 206.201.
- B. Recipient. Recipient means the State, Territorial or Indian tribal government that receives a Federal award directly from FEMA to carry out an activity under the Public Assistance program. 2 C.F.R. § 200.86; 44 C.F.R. § 206.201(m).
- C. Real Property. Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment. 2 C.F.R. § 200.85.
- D. Personal Property. Personal property means property other than real property. 2 C.F.R. § 200.78.
- E. Equipment. Tangible personal property (including information technology systems) that have a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the *lesser* of the capitalization level established by the applicant for financial statement purposes, or \$5,000. 2 C.F.R. § 200.33.

- F. Supplies. All tangible personal property other than those that meet the definition of equipment. 2 C.F.R. § 200.94.

VI. Authorities and References

- A. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, §§ 403 and 502 (1974) (codified as amended at 42 U.S.C. §§ 5170b and 5192);
- B. 44 C.F.R. §§ 206.2 (Definitions), 206.62 (Available Assistance), 206.201 (Definitions), 206.208 (Direct Federal Assistance), 206.221 (Definitions), 206.225 (Emergency Work), and 206.228 (Allowable Costs);
- C. 2 C.F.R. §§ 200.33 (Equipment), 38 (Federal award), 40 (Federal financial assistance), 54 (Indian Tribe), 64 (Local Government), 78 (Personal Property), 85 (Real Property), 86 (Recipient), 90 (State), 94 (Supplies), 101 (Applicability), 312 (Federally-owned and exempt property), 313 (Equipment), and 314 (Supplies);
- D. FEMA Policy No. 104-009-2, *Public Assistance Program and Policy Guide*, v. 3.1 (Apr. 2018) (“PAPPG”);
- E. FEMA Instruction No. 116-1-1, *Identification and Collection of Monies Owed from Non-Federal Entities* (Sep. 2016).

VII. Question

Please contact Daniel Haile, Acting Public Assistance Branch Chief, FEMA Region II, or Alexander Greenberg, Infrastructure Branch Director for COVID-19, with any questions concerning this Information Paper.