



OFFICE OF THE CITY ADMINISTRATOR



London N. Breed, Mayor
Naomi M. Kelly, City Administrator

MEMORANDUM

TO: Department Heads

FROM: City Administrator Naomi M. Kelly 

RE: Guidance for Departments on Procurement and Reimbursement from the Federal Emergency Management Agency (“FEMA”)

DATE: April 22, 2020

This memorandum provides guidance on the Federal Emergency Management Agency (“FEMA”) requirements for qualifying an emergency contract or purchase for reimbursement by FEMA. Please consult with your Deputy City Attorney if you require advice about a particular contract.

I. FEMA Contract and Purchase Order Appendices

The City Attorney’s Office has prepared three appendices that contain FEMA required clauses for emergency contracts and purchases for which FEMA reimbursement may be sought. Instructions for each Appendix is set forth below:

- 1) Purchase Order Appendix:** This appendix should be attached to all non-negotiable purchase orders not associated with any contract **or** purchase orders issued against existing contracts that do not contain the stated FEMA requirements.
- 2) Ch. 21 and Grants Contract Appendix:** This appendix should be attached all newly negotiated contracts and grants or as amendments to existing contracts.
- 3) Chapter 6 Contract and Purchase Order Appendix:** This appendix should be attached to all contracts and purchase orders for construction or construction services.

The three versions of the appendix are included with this memorandum and can also be located at <https://sfgov.org/oca/resources>. The appendices can be modified to a certain extent but must include the essential FEMA terms unless already fully covered in the contract. Please consult with your Deputy City Attorney before agreeing to any modifications.

The contractor/vendor should sign the anti-lobbying certification at the end of each appendix.

II. FEMA Procurement Procedures & Considerations

The following is summary of the essential procurement considerations identified by FEMA. The City may be unable to adhere perfectly to these criteria during the emergency, but should endeavor to follow them as closely as possible. Please consult with your Deputy City Attorney for a more detailed analysis of the required procedures.

- 1) Verify the emergency or exigency. Non-competitive procurement (including sole-sourcing) is generally only permitted to respond to an emergency or exigency.
- 2) Only contract for what is necessary (services, quantities and/or term of the agreement) to address the emergency or exigency.
- 3) Compare the price of the goods or services to an independent estimate.
- 4) Confirm contractor/vendor not suspended; check www.sam.gov.
- 5) Maintain oversight of contractor/vendor performance.
- 6) Only use Time & Material contracts if no other method suitable; and must include ceiling price if used.
- 7) Cost plus percentage of cost contracts are strictly prohibited.
- 8) Document these steps and save in PeopleSoft notes; save records for FEMA audit.

III. Revenue Agreements

Contracts anticipated to generate revenue to the City of one million dollars or more, or the modification of such a contract, must be approved by the Board of Supervisors under Charter Section 9.118. My office has introduced legislation to delegate that authority to departments. If you are considering modifying a revenue agreement, please contact your Deputy City Attorney.

During this emergency, please direct any questions about this memorandum to Assistant Director of the Office of Contract Administration Taraneh Moayed at taraneh.moayed@sfgov.org.