



FEMA

March 27, 2020

Mr. Mark S. Ghilarducci, Director
Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Re: Request for Approval of Non-Congregate Sheltering
FEMA-4482-DR-CA (COVID-19)

Dear Mr. Ghilarducci:

This is in response to your letter dated March 25, 2020, requesting that FEMA approve Public Assistance (PA) funding for costs related to emergency, non-congregate sheltering.

In accordance with section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, eligible emergency protective measures taken to respond to the referenced Coronavirus Disease 2019 (COVID-19) disaster, at the direction or guidance of state, local, tribal, and territorial public health officials, may be reimbursed under Category B of FEMA's PA program if necessary to save lives, protect improved property, or public health and safety, and/or lessen or avert the threat of catastrophes.

Based on my review of your request and supporting documentation and information provided, I am approving your request for FEMA's reimbursement of costs related to emergency, non-congregate sheltering (Emergency NCS), subject to the conditions and limitations set forth below. The Emergency NCS will be implemented by the State of California (State) pursuant to (1) the Governor's Executive Order No. N-25-20 ordering all residents to obey any orders and guidance issued by state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19, (2) the Governor's Executive Order N-33-20 (a) incorporating the Order of the State Public Health Officer issued on March 19, 2020, that requires all individuals living in the State of California to stay at home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, and (b) directing the California Governor's Office of Emergency Services to take necessary steps to ensure compliance with the Executive Order, and (3) guidance issued by the California Department of Public Health that includes the need to practice social distancing.¹

¹ <https://www.gov.ca.gov/2020/03/16/california-issues-directive-to-fight-covid-19/>.

My approval of the State's request for PA funding for costs related to Emergency NCS includes the populations identified below, which does not include all populations identified in your March 25 letter. Furthermore, my approval of the State's request is subject to and conditioned by the following:

- FEMA will reimburse Emergency NCS costs incurred for:
 - Individuals who test positive for COVID-19 that do not require hospitalization, but need isolation or quarantine (including those exiting from hospitals);
 - Individuals who have been exposed to COVID-19 (as documented by a state or local public health official, or medical health professional) that do not require hospitalization, but need isolation or quarantine; and
 - Individuals who are asymptomatic, but are at "high-risk," such as people over 65 or who have certain underlying health conditions (respiratory, compromised immunities, chronic disease), and who require Emergency NCS as a social distancing measure.
- My approval does not currently include the reimbursement of costs for the sheltering of asymptomatic individuals that are not among the populations identified above, but whose living situation may make them unable to adhere to social distancing guidance.
- My approval includes the reimbursement of costs incurred for wrap-around services directly necessary for the safe and secure operation of NCS facilities. However, costs associated with the provision of support services such as case management, mental health counseling, and similar services are not eligible for reimbursement under the PA program.
- My approval is limited to costs that are reasonable and necessary for providing Emergency NCS to eligible individuals (as identified in bullet point 1 above).² In this regard, please note that FEMA does not mandate that the State pursue a specific option or options for temporary facilities to be used for Emergency NCS, but FEMA will only approve PA funding for cost-effective and practical options.
- My approval is limited to costs associated with sheltering individuals through April 30, 2020, unless the public health needs should sooner terminate. The State must obtain FEMA's approval for any time extensions, which should include a re-assessment of the continuing need for Emergency NCS from a State public health official, as well as a detailed justification for the continuing need for emergency non-congregate sheltering.³
- My approval is limited to costs associated with the provision and operation of facilities for Emergency NCS and does not include the approval of costs for the conversion of facilities for the provision of emergency medical care.

² *Public Assistance Program and Policy Guide*, FP 104-009-2, at 67 (April 1, 2018) (PAPPG). See also 2 C.F.R. §§ 200.403 and 200.404.

³ PAPPG, at 67.

- My approval is subject to, and limited by, Emergency NCS guidance issued by FEMA, including in the form of Fact Sheets.

Additionally,

- The State 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.⁴
- FEMA will not approve PA 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.
- The State must comply with, and enable FEMA to comply with, applicable environmental and historic preservation laws, regulations, and executive orders or funding may be jeopardized.⁵

The State of California will need to maintain tracking mechanisms to provide sufficient data and documentation to establish the eligibility of Emergency NCS costs for which it is requesting PA funding (including the need for non-congregate sheltering of each individual, length of stay, and costs). As with any activity, lack of sufficient support documentation may result in FEMA determining that some or all of the State's claimed costs are ineligible.

If you have any additional questions regarding this matter, please contact Robert Pesapane, Recovery Division Director, at (510) 627-7250.

Sincerely,



Robert J. Fenton
Regional Administrator
FEMA Region IX

cc: James Cho, Response Division Director, FEMA Region IX
Robert Pesapane, Recovery Division Director, FEMA Region IX
John-Paul Henderson, Regional Counsel, FEMA Region IX

⁴ *Id.*, at 68-69.

⁵ *Id.*, at 43-44.