FEMA RECOVERY

FACT SHEET RP9580.201

Debris Contracting Guidance

Overview

Debris removal and monitoring contracts must meet rules for Federal grants, as provided for in Title 44 Code of Federal Regulations (CFR) §13.36, **Procurement** in order to be eligible for reimbursement under the Public Assistance Program. This fact sheet assists Public Assistance applicants with meeting procurement requirements established in 44 CFR Part 13, as well as other Public Assistance Program eligibility requirements, when procuring debris removal and monitoring contracts. Public Assistance applicants should comply with their own procurement procedures in accordance with applicable State and local laws and regulations, provided that they conform to applicable Federal laws and standards identified in Part 13.

Contract Procurement

To be eligible for Federal funding, applicants must comply with federal procurement standards as outlined in 44 CFR, §13.36, **Procurement**. Essential elements of the procurement process for debris removal and monitoring contracts include: competition; a clear and definitive scope of work; qualified bidders (documented by licenses, financial records, proof of insurance, and bonding, as applicable); a cost analysis to demonstrate cost reasonableness; compliance with all relevant local, State, and Federal requirements, laws and policies; and, clear documentation of the process/rationale followed in making procurement decisions. Federal regulations require applicants for Public Assistance grants to take the necessary steps to ensure there are opportunities to award contracts to minority, women-owned, and Labor Surplus Area businesses and firms whenever possible. This includes contracts with local organizations, firms, and individuals that support response and recovery activities in a declared major disaster or emergency area. Applicants' legal representatives should review their procurement process and any contract to be awarded to ensure they are in compliance with all Federal, State, and local requirements. Procurement policies must include procedures to handle protests and disputes related to contracts awarded. ***FEMA will, when requested by applicants, assist in the review of debris removal contracts. However, such a review does not constitute approval.***

In order to ensure that debris removal and monitoring contracting costs are eligible, applicants should:

☐ Use competitive bidding procedures to meet procurement requirements for Federal grants, as established in 44 CFR § 13.36, *Procurement*.

☐ Only use abbreviated emergency procurement procedures that include an expedited competitive bid process if time does not allow for more stringent procedures and if they are allowed under State or local laws, codes, or ordinances.

☐ Provide a clear and definitive scope of work in the request for proposals/bids.

☐ Require bidders to provide copies of references, licenses, financial records, and proof of insurance and bonding.

☐ Ensure that debris removal or monitoring contract costs are reasonable and necessary as defined and required by OMB Circular A-87 and 44 CFR Part 13. *Competitively bid contracts that comply with Federal, State, and local procurement regulations and procedures will establish reasonable costs for the work.*

☐ Complete and document a cost analysis to demonstrate price reasonableness on any contract or contract modification where adequate price competition is lacking, as detailed in 44 CFR § 13.36(f). See Attachment 1, *Debris Removal Contract Cost Analysis*, for guidance on completing a cost analysis.

Cost Analysis

Pursuant to 44 CFR § 13.36, **Procurement**, Public Assistance applicants must complete a cost analysis for *any contract or contract modification where price competition is lacking*. Failure to complete a cost analysis may jeopardize FEMA Public Assistance grant funding. Applicants are encouraged to complete a cost analysis using the attached *Debris Removal Contract Cost Analysis*. Applicants are also encouraged to file documentation supporting the cost analysis with all associated contract documents.

Upon request, FEMA will provide guidance as necessary in the cost analysis process. Such a review does not constitute approval when determining the eligibility of costs for reimbursement under FEMA's Public Assistance Program.

Pre-Disaster and Standby Contracts

Applicants are encouraged to pre-qualify debris removal contractors prior to an event and solicit bid prices from this list of contractors once an event has occurred to ensure competitive bidding and obtain reasonable market prices at the time of work performed. The solicitation for pre-qualifying contractors

should adequately define in the proposed scope of work all potential debris types, anticipated haul distances, and size of events for which a contract may be activated.

Debris Removal Contract Provisions

All debris removal contracts must contain the following provisions:

☐ All payment provisions must be based on unit prices (volume or weight).

☐ Payments based on time and material costs are limited to work performed during the first 70 hours of actual work following a disaster event.

> *Note:* FEMA will typically only reimburse applicants for a time and materials contract for eligible debris clearance during the first 70 hours following a declared disaster. After 70 hours of work, the applicant should have sufficient information on the scope of work necessary to complete debris collection and disposal, and a basis for estimating a reasonable cost for the contract work to effectively solicit a lump sum or unit price contract. For some types of debris work time and materials contracts may be the most cost-effective and best suited to the type of work. Applicants should work closely with the State and FEMA when awarding such contracts to ensure eligibility requirements are met.

☐ Payment will be made only for debris that FEMA determines eligible. (This is an optional provision to protect the applicant.)

☐ Contractors must submit invoices regularly and for no more than 30-day periods.

☐ A "Termination for Convenience" clause allowing contract termination at any time for any reason.

☐ A time limit on the period of performance for the work to be done.

☐ A subcontract plan including a clear description of the percentage of the work the contractor may subcontract out and a list of subcontractors the contractor plans to use.

☐ A requirement that the contractor use mechanical equipment to load and reasonably compact debris into the trucks and trailers.

☐ A requirement that the contractor provide a safe working environment.

☐ A requirement that all contract amendments and modifications will be in writing.

☐ A requirement that contractors must obtain adequate payment and performance bonds and insurance coverage.

Debris Monitoring Contracts

Applicants must monitor all debris removal operations. Applicants must document all eligible debris removal expenses as a condition of receiving Public Assistance funding. Applicants may use contractors to monitor their debris removal operations. In addition to the guidance provided above, applicants should consider the following when procuring debris monitoring contracts:

☐ Debris monitoring contracts must be competitively procured as required by 44 CFR § 13.36, **Procurement**.

☐ Debris monitors should not be employed by or affiliated with the debris removal contractor.

☐ Debris monitoring contracts are typically time and materials contracts and must contain a not-to-exceed clause, pursuant to 44 CFR § 13.36, **Procurement**.

☐ The contract should include a requirement that the contractor provide a safe working environment, including properly constructed monitoring towers.

☐ Use of a load ticket system to record with specificity (e.g., street address, GPS coordinates) where debris is collected and the amount picked up, hauled, reduced, and disposed of.

☐ Debris monitors should be trained and possess skills adequate to fulfill the duties of the job. Labor rates should be commensurate with the skill level required by the job function. **Professional engineers and qualifications are not required to perform monitoring duties.**

☐ The contractor should demonstrate that its staff is familiar with FEMA debris removal eligibility criteria.

Avoidance Checklist

☐ **DO NOT:** Award a debris removal or debris monitoring contract on a sole-source basis.

☐ **DO NOT:** Sign a contract (including one provided by a contractor) until your legal representative has thoroughly reviewed it.

☐ **DO NOT:** Allow any contractor to make eligibility determinations; only FEMA has authority to make final eligibility determinations.

☐ **DO NOT:** Accept any contractor's claim that it is "FEMA certified." FEMA does not certify, credential, or recommend debris contractors.

☐ **DO NOT:** Award a contract to develop and manage debris management sites, unless the debris sites are part of your approved debris management plan or you contact the State or FEMA for technical assistance concerning the need for such an operation. Temporary Debris Storage and Reduction sites are not always necessary.

☐ **DO NOT:** Allow separate line item payment for stumps 24 inches and smaller in diameter; you should treat these stumps as normal debris.

☐ **DO NOT:** "Piggyback" or utilize a contract awarded by another entity. "Piggybacking" may be legal under applicable state law; however, the use of such a contract may jeopardize FEMA funding because these contracts do not meet requirements for competition established in 44 CFR § 13.36. If an applicant requests reimbursement for costs it incurred from a piggyback contract, FEMA will determine the reasonable cost for the performance of eligible work.

☐ **DO NOT:** Award pre-disaster/stand-by contracts with mobilization costs or unit costs that are significantly higher than what they would be if the contract were awarded post-disaster. Such contracts should have variable mobilization costs depending upon the size of the debris work that may be encountered.

☐ **DO NOT:** Allow for markups due to errors in volume calculations.

☐ **DO NOT:** Allow for miscellaneous items, or for contract contingencies of any kind, including "unknowns."

See Attachment 2, *Debris Operations Contract Bid Sheet,* for additional guidance on debris contracts.

Deborah Ingram
Acting Assistant Administrator
Recovery Directorate

9/27/10
Date

Attachments (2)

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ATTACHMENT 1:
Debris Removal Contract Cost Analysis

This guidance is intended to assist Public Assistance applicants in complying with the requirements of 44 CFR Part 13.36, **Procurement**, for debris operation contracts or contract modifications where adequate price competition is lacking.

When to Conduct a Cost Analysis

Applicants should complete a cost analysis when one of the following conditions applies:

- The applicant has not received two or more priced bids from responsible bidders after soliciting a number of sources;
- Services can only be provided by a single source;
- The awarding agency authorizes noncompetitive proposals;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
- The procurement is a contract modification or change order.

General Contract Review

In order to conduct a cost analysis, applicants should request cost documentation from their debris contractors. This documentation should contain a detailed breakdown of costs for each item of work activity and information on how the contractor arrived at its costs, including, but not limited to:

- Number of labor hours,
- Labor rates,
- Materials (types, quantities, and costs),
- Equipment hours,
- Equipment rates, or
- Unit costs

Applicants are encouraged to verify the mathematical accuracy of the cost documentation by recalculating the contractor's cost figures. Applicants should also review the proposed contract's scope

of work for cost reasonableness to ensure that the proposed scope does not fall under an existing contract.

Applicants should ensure that the contract does not use prohibitive contracting methods per 44 CFR § 13.36(f)(4), including:

1. Cost plus a percentage of cost – this is a contract that provides a specified percentage profit over and above the actual costs of construction; and
2. Percentage of construction cost.

Labor Rate Analysis

Applicants may determine the reasonableness of labor rates by:

1. Comparing the proposed labor category rates with the labor rates in another contract that was competitively bid;
2. Matching rates for each labor category to an acceptable source (e.g. RS Means);
3. Verifying that the classification of each worker and skill level proposed in the contract are reasonable and necessary for the scope of work. For example, a contractor should not propose using an experienced supervisor rate or worker with professional qualifications for work that can be done by a low skilled laborer (e.g., using a professional engineer for debris monitoring). In this case, the supervisor labor classification is unreasonable and should be adjusted to the appropriate labor classification that is more commensurate with the type of work being performed; and
4. Verifying that the proposed number of labor hours are reasonable for the scope of work.

Equipment Rate Analysis

Applicants may determine the reasonableness of equipment rates by:

1. Comparing the proposed equipment rates with the equipment rates in another contract that was competitively bid (if a change order, compared rates to the original contract);
2. Comparing the proposed equipment rates to FEMA's Schedule of Equipment Rates, available at www.fema.gov;
3. Matching equipment rates for each piece of equipment to an acceptable source (e.g., EquipmentWatch);
4. Verifying that the type of equipment proposed is reasonable and necessary for the scope of work;
5. Verifying that the number of units (normally hours) of equipment usage necessary to complete the work is reasonable considering the specific scope of work; and
6. Verifying that there are no contract provisions for the following items with regard to the

proposed equipment costs:

- Mobilization costs
- Standby costs

Unit Rate Analysis

Applicants may determine the reasonableness of unit rates by:

1. Verifying that the unit of measurement (i.e. cubic yard, weight, each, etc.) is appropriate for the scope of work (if the contractor quoted a unit rate price); and
2. Comparing the proposed unit rates with similar rates in another contract that was competitively bid (if a change order, comparing rates to the original contract).

Materials and Supplies Analysis

Applicants should review the materials and supplies included in the contract proposal and ensure that all costs are reasonable.

(Scope of Work) Volume Estimates

In some circumstances, a contractor will include debris volume estimates in support of its proposed costs. Contractors develop these estimates using aerial and ground assessments, forecasting and estimating models (e.g., USACE hurricane debris models and photographs), side scan sonar and other methodologies.

Applicants should request hard copies of volume estimates and all supporting documentation in order to determine if the methodology that the contractor used to estimate debris was an acceptable and reasonable methodology. Applicants should also verify that the volume estimates are reasonable and accurate.

Price Analysis for Competitively Bid Contracts

Applicants are required by 44 CFR Part 13.36(f)(1) to perform a price analysis in all other instances (i.e., for competitively bid contracts when price competition is adequate), to determine the reasonableness of the proposed contract price. Price analyses may incorporate an evaluation of: historic documentation for similar work; average costs for similar work in the area; published unit costs from the national cost estimating databases; and FEMA cost codes, equipment rates, and engineering and design service curves. Upon request, FEMA will assist applicants in the review of these contracts and provide guidance as necessary.

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ATTACHMENT 2:
Debris Operations Contract Bid Sheet

Overview

Public Assistance applicants may use the following debris operations bid sheet as a template when issuing requests for proposals and soliciting contract bids for debris removal work. Use of a standard bid sheet will help Public Assistance applicants to compare and analyze bids, resulting in a more effective procurement process. **The bid sheet serves only as a guide for soliciting requests for debris removal services; use of the bid sheet is not a requirement for Public Assistance funding.** Please refer to the *Debris Operations Contracting and Cost Analysis* (Attachment 1) for guidance on complying with procurement requirements established in 44 CFR Part 13, **Procurement**.

Debris Operations Bid Sheet

The debris operations bid sheet is presented on the next three pages. The remainder of this section is intentionally left blank.

ATTACHMENT 2:
Debris Operations Contract Bid Sheet

SAMPLE Debris Bid Sheet					
SAMPLE Category	SAMPLE Field Name and Description	SAMPLE Unit	Cost per Unit	Estimated Total Units	Total
Vegetative Collect and Haul	0-15 Miles Veg from Right of Way (ROW) to Debris Management Site (DMS) *Vegetative collect and removal for a haul distance up*	CY	999999	999999	99,999,999.00
	16-30 Miles Veg from ROW to DMS *Vegetative collect and removal for a haul distance up between 16 and 30 miles*	CY	999999	999999	99,999,999.00
	31-60 Miles Veg from ROW to DMS *Vegetative collect and removal for a haul distance between 31 and 60 miles*	CY	999999	999999	99,999,999.00
	60+ Miles Veg from ROW to DMS *Vegetative collect and removal for a haul distance greater than 60 miles*	CY	999999	999999	99,999,999.00
	Single Price Veg from ROW to DMS *A single price vegetative collect and removal for any haul distance*	CY	999999	999999	99,999,999.00
Management and Reduction	Grinding *Grinding/chipping vegetative debris*	CY	999999	999999	99,999,999.00
	Air Curtain Burning *Air Curtain Burning vegetative debris*	CY	999999	999999	99,999,999.00
	Open Burning *Open Burning vegetative debris*	CY	999999	999999	99,999,999.00
	Compacting *Compacting vegetative debris*	CY	999999	999999	99,999,999.00
	Debris Management Site Management *Preparation, management, and segregating at debris management site*	CY	999999	999999	99,999,999.00
C & D Collect and Haul	0-15 Miles C&D from ROW to DMS *C&D collect and removal for a haul distance up to 15 miles*	CY	999999	999999	99,999,999.00
	16-30 Miles C&D from ROW to DMS *C&D collect and removal for a haul distance between 16 and 30 miles*	CY	999999	999999	99,999,999.00
	31-60 Miles C&D from ROW to DMS *C&D collect and removal for a haul distance between 31 and 60 miles*	CY	999999	999999	99,999,999.00
	60+ Miles C&D from ROW to DMS *C&D collect and removal for a haul distance greater than 60 miles*	CY	999999	999999	99,999,999.00
	Single Price C&D from ROW to DMS *A single price C&D collect and removal for any haul distance*	CY	999999	999999	99,999,999.00

THIS SAMPLE BID SHEET IS INTENDED FOR INFORMATIONAL PURPOSES ONLY. IT SHOULD NOT BE SUBMITTED TO FEMA.

ATTACHMENT 2: DEBRIS OPERATIONS CONTRACT BID SHEET

Final Disposal	0-15 Miles from DMS to Final Disposal *Transport processed debris from DMS to final disposal 0-15 Miles*	CY	999999	999999	99,999,999.00
	16-30 Miles from DMS to Final Disposal *Transport processed debris from DMS to final disposal 16-30 Miles*	CY	999999	999999	99,999,999.00
	31-60 Miles from DMS to Final Disposal *Transport processed debris from DMS to final disposal 31-60 Miles*	CY	999999	999999	99,999,999.00
	60+ Miles from DMS to Final Disposal *Transport processed debris from DMS to final disposal 60+ Miles*	CY	999999	999999	99,999,999.00
	Single Price from DMS to Final Disposal *A single price transport of processed debris from DMS to final disposal*	CY	999999	999999	99,999,999.00
	Tipping Fees (Vegetative) *Fee includes negotiated contract price or pass through amount for vegetative*	CY	999999	999999	99,999,999.00
	Tipping Fees (Mix) *Fee includes negotiated contract price or pass through amount for Mix*	CY	999999	999999	99,999,999.00
	Tipping Fees (C&D) *Fee includes negotiated contract price or pass through amount for C&D*	CY	999999	999999	99,999,999.00

Tree Operations	Hazardous Trees 6"-12" *Hazardous tree removal for a 6-12 inch trunk diameter*	Tree	999999	999999	99,999,999.00
	Hazardous Trees 13"-24" *Hazardous tree removal for a 13-24 inch trunk diameter*	Tree	999999	999999	99,999,999.00
	Hazardous Trees 25"-36" *Hazardous tree removal for a 25-36 inch trunk diameter*	Tree	999999	999999	99,999,999.00
	Hazardous Trees 37"-48" *Hazardous tree removal for a 37-48 inch trunk diameter*	Tree	999999	999999	99,999,999.00
	Hazardous Trees 49"+ *Hazardous tree removal for a 49+ inch trunk diameter*	Tree	999999	999999	99,999,999.00
	Trees with Hazardous Limbs >2" *Hazardous hanging limb removal*	Tree	999999	999999	99,999,999.00
	Hazardous Sumps >24"-36" *Hazardous stump removal for a 24-36 inch stump diameter*	Stump	999999	999999	99,999,999.00
	Hazardous Sumps >37"-48" *Hazardous stump removal 37-48 inch stump diameter*	Stump	999999	999999	99,999,999.00
	Hazardous Sumps >49"+ *Hazardous stump removal 49+ inch stump diameter*	Stump	999999	999999	99,999,999.00
	Stump Fill Dirt *Fill dirt for stump holes after removal*	CY	999999	999999	99,999,999.00

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ATTACHMENT 2: DEBRIS OPERATIONS CONTRACT BID SHEET

Specialty Removal	Waterway Debris Removal *Debris Removal from canals, rivers, creeks, streams, and ditches*	CY	999999	999999	99,999,999.00
	Sand Collection and Screening *Pick up, screen, and return debris laden sand/mud/dirt/rock*	CY	999999	999999	99,999,999.00
	Vehicle Removal *Removal of eligible vehicle*	Unit	999999	999999	99,999,999.00
	Vessel Removal (Land) *Removal of eligible vessel*	LF	999999	999999	99,999,999.00
	Vessel Removal (Marine) *Removal of eligible vessel from waterway*	LF	999999	999999	99,999,999.00
	Carcass Removal *Removal of debris that will decompose (animals and organic fleshy matter)*	Pound	999999	999999	99,999,999.00
	ROW White Goods Removal *Pick up and haul of white goods to disposal site*	Unit	999999	999999	99,999,999.00
	Freon Management *Freon management and recycling*	Unit	999999	999999	99,999,999.00
	Demolition of Private Structure	CY	999999	999999	99,999,999.00
	Electronic Waste *Removal of electronic debris that contain hazardous materials, such as cathode ray tubes. Includes computers monitors and televisions.*	Unit	999999	999999	99,999,999.00
	Silt Removal		999999	999999	99,999,999.00
	Putrescent Removal *Removal of debris that will decompose or rot (animals and organic fleshy matter)*		999999	999999	99,999,999.00
	Biowaste *Removal of waste capable of causing infection to humans (animal waste, human blood, pathological waste).*	Pound	999999	999999	99,999,999.00
	Household Hazardous Waste (HHW) *HHW removal and disposal*	Pound	999999	999999	99,999,999.00
Restoration	Beach/Lake Restoration *Berm/Beach Construction*	CY	999999	999999	99,999,999.00
	Canal Shoreline Restoration	LF	999999	999999	99,999,999.00
Monitoring	Debris Management Site Debris Monitors	Hour	999999	999999	99,999,999.00
	Debris Collection Site Debris Monitors (Field Monitors)	Hour	999999	999999	99,999,999.00
	Sr. Technician/Field Supervisor	Hour	999999	999999	99,999,999.00
	Clerical Staff	Hour	999999	999999	99,999,999.00
	Clerical Supervisor	Hour	999999	999999	99,999,999.00
				Total	9,999,999.00

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