NEW YORK STATE | Homeland Security and Emergency Services

FEMA

DR-4480 (COVID-19) - Applicants Briefing Pertinent Information

- NYS DHSES Website: www.dhses.ny.gov/recovery
- The Request for Public Assistance (RPA) packets for both Governmental and Nonprofit Entities can be found on the DHSES website under "Active Declarations." Please complete and send to Patricia Debboli (below).
- For questions, please contact Patricia Debboli at: patricia.debboli@dhses.ny.gov

  - The presentation will be posted on the DHSES website soon.
  - Other useful information will be posted as it is available.

*** Please remember to mute your phones and your computer!***

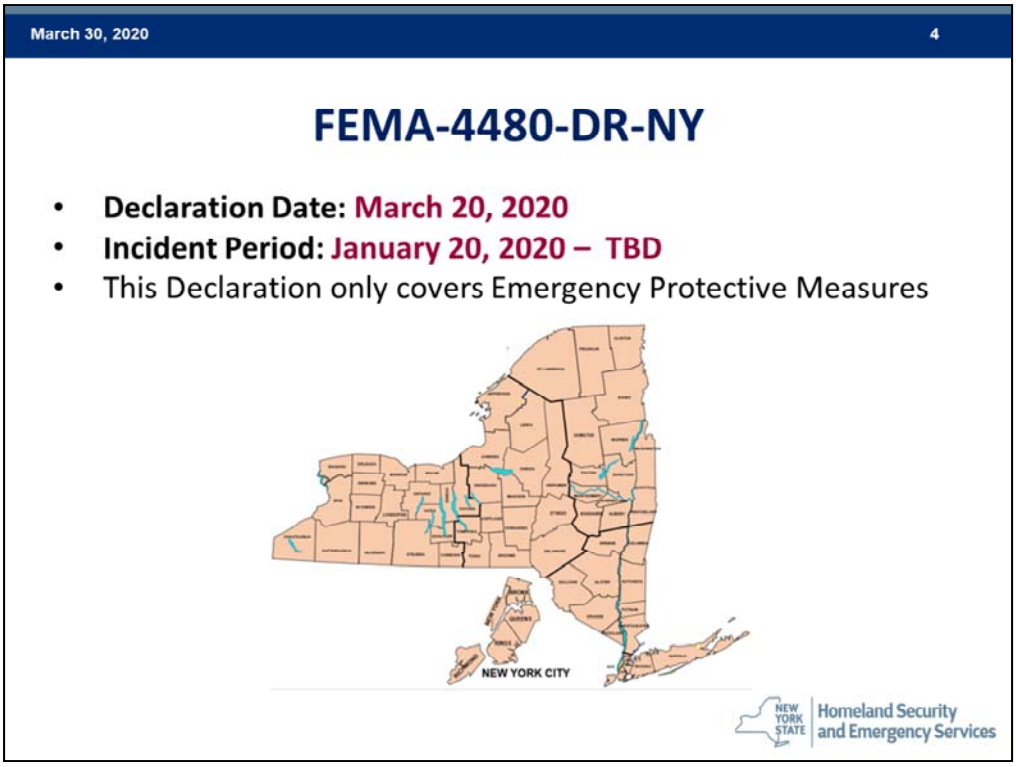
March 30, 2020

Good morning/afternoon/evening. My name is Andrew Martin, Public Assistance Section Chief with the NYS Division of Homeland Security and Emergency Services. Welcome to the Applicants Briefing for DR-4480 – the major disaster declaration issued for the State of New York in response to COVID-19. We realize that these are difficult times for everyone and that you all are extremely busy but we need to provide you with the information in this briefing in order to help you to prepare and submit projects for reimbursement in this disaster. Under the unique circumstances of this extraordinary event, it may not be possible to identify and reach all potential Applicants within New York State, so we are asking all of you to help if you can by spreading the word in your communities to as many organizations as you can, especially any not-for-profit entities that may not be aware of their potential eligibility.

(Read the below if it has not been discussed already by the moderator.)

Please note that due to the number of attendees, all callers will be muted while I narrate and elaborate on the presentation. There will be a question and answer period at the end of the presentation, and you are encouraged to use the chat box online to submit questions which will be read and addressed in the Q&A session.

We will start with an overview of DR 4480 Public Assistance.



The President issued a major disaster declaration for NY on March 20, 2020. FEMA assigns a number to every federally declared disaster, and the disaster number for this COVID-19 incident is 4480.

The incident period for this declaration goes back to January 20, 2020. This means that eligible expenditures for activities conducted on or after January 20th can be submitted to FEMA for reimbursement. The incident period for DR 4480 is currently open-ended. We anticipate that FEMA will establish an end date for the Incident Period at some point in the future and we will make that information available when it is known.

This disaster declaration only covers Category “B” (Emergency Protective Measures) and we will discuss what this means later in the presentation.

The map shows the declared counties in NY. As you can see, all 62 counties in the State have been declared for DR 4480.

Key Personnel

Seamus Leary:
FEMA Federal Coordinating Officer (FCO)

Patrick A. Murphy:
Governor's Authorized Representative (GAR)
State Coordinating Officer (SCO)

Anne Bink:
Alternate Governor's Authorized Representative (AGAR)

Dan O'Hara:
Deputy State Coordinating Officer (DSCO)

Kelly Sommerman:
DHSES Disaster Assistance Manager (DAM) for DR-4480

NYS/FEMA Team
County Emergency Managers

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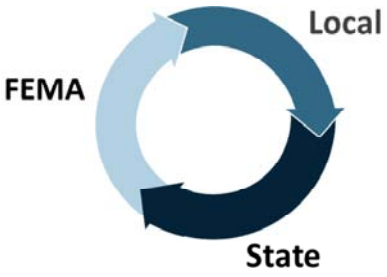
This slide shows the key leadership personnel that have been assigned to manage this Disaster. Seamus Leary is the FEMA Federal Coordinating Officer for NY. NYS DHSES Commissioner Patrick Murphy is the Governor's Authorized Representative and State Coordinating Officer. Deputy Commissioner Anne Bink is the Alternate Governor's Authorized Representative and Director Dan O'Hara is the Deputy State Coordinating Officer. Kelly Sommerman is the Disaster Assistance Manager.

Public Assistance: Overview

- Public Assistance is a reimbursement program that provides financial assistance to eligible applicants for some costs incurred for response and recovery activities as a result of a declared Emergency



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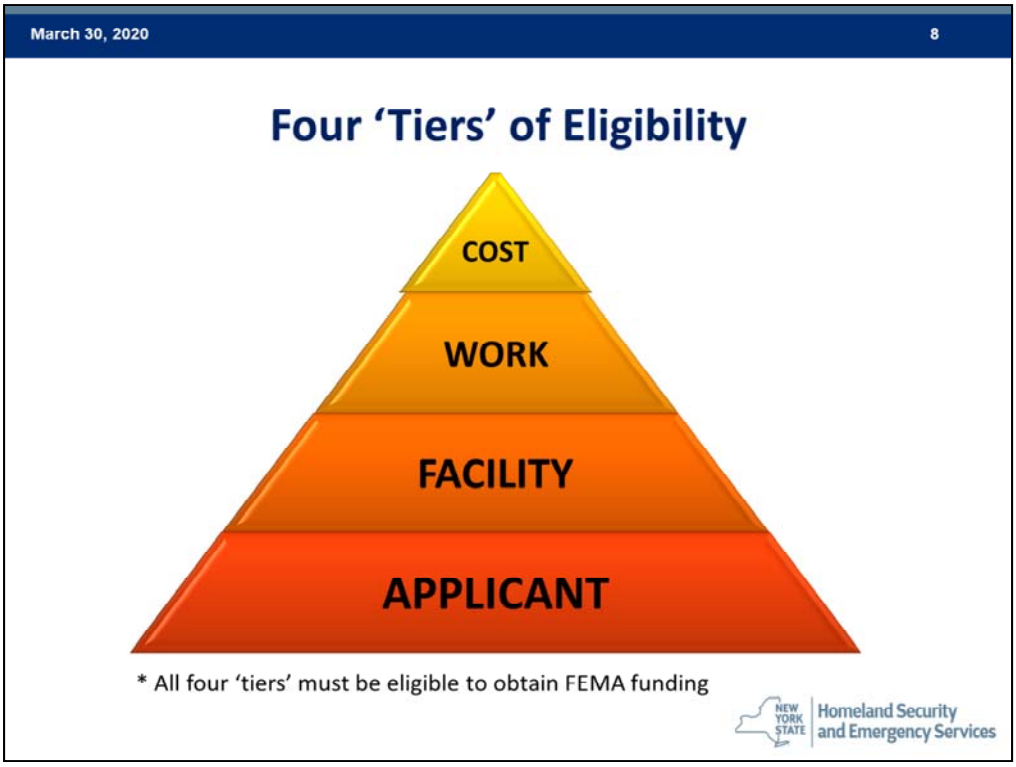
What is Public Assistance? The key to remember is that it is a reimbursement program. FEMA will provide financial assistance for eligible expenses that are a direct result of the declared event….. COVID-19.

We will now cover some Public Assistance Eligibility criteria.



This pyramid shows the tiers of eligibility. All four "tiers" must be eligible to obtain FEMA funding. We will cover all of these, with the first being the bottom tier - eligible Applicants.

Eligible Applicants

- **State Agencies:**
  - DOT, DEC, State Police, DMNA, DHSES, etc.
- **Local Governments:**
  - Cities, Counties, Towns, Villages, School Districts, etc.
- **Federally Recognized Native American Nations**
- **Certain Types of Private Nonprofit Organizations**
  - Critical
  - Essential/Non-Critical

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On this slide, you can see the types of eligible Applicants and determine what group you fall into. In this event, we will have a large number of private nonprofits, or PNPs.

For the purposes of this Category B declaration, the distinction between “Critical PNPs” and “Non-critical but Essential PNPs” is not material. Both types of PNPs are eligible applicants for Emergency Protective Measures.

Let’s provide some examples of eligible PNPs and discuss some additional documentation that FEMA requires from this group of Applicants to determine eligibility.

Critical Private Non-Profits

- **Critical PNPs Include:**
  - Nursing Homes
  - Laboratories
  - Rehab Centers that Provide Medical Care
  - Hospitals and Emergency Care Facilities
  - Fire / Rescue Emergency Services
  - Educational Facilities (including institutions of higher education)

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Critical PNPs include …

Essential/Non-Critical Private Non Profits

- **Essential/Non-Critical PNPs Include:**
  - Community Centers
  - Child Care Facilities
  - Food Assistance Programs
  - Performing Arts Facilities
  - Senior Citizen Centers
  - Homeless Shelters
  - Houses of Worship
- **If Determined an Essential/Non-Critical PNP:**
  - Eligible for Emergency Protective Measures (Category B)

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Here are examples of Non-Critical but Essential Not-for-Profit Applicants. This list is not exhaustive and there may be other types of PNPs that are potentially eligible under this category. If you know of one that is not listed and you need more information, please contact us and we will be happy to assist.

Again, we urge you to help us get the word out to any potential Applicants, particularly PNPs, who may not be aware that they may be eligible to participate in this disaster.

Private Non Profit Requirements

- **Required RPA Documentation:**
  - DUNS Number
  - Organizational Charter / By-Laws
  - Tax Exempt Letter, 501(c), (d), or (e) IRS designation
  - NYS Comptroller's W-9 Form
  - Articles of Incorporation
  - PNP Questionnaire
  - Copy of the Deed or Lease Agreement
  - Click here for PNP RPA Package: PNP RPA Package

- **FEMA cannot determine if a PNP is an eligible applicant until all required forms and documentation are submitted. FEMA has made applicants ineligible for lack of documentation.**

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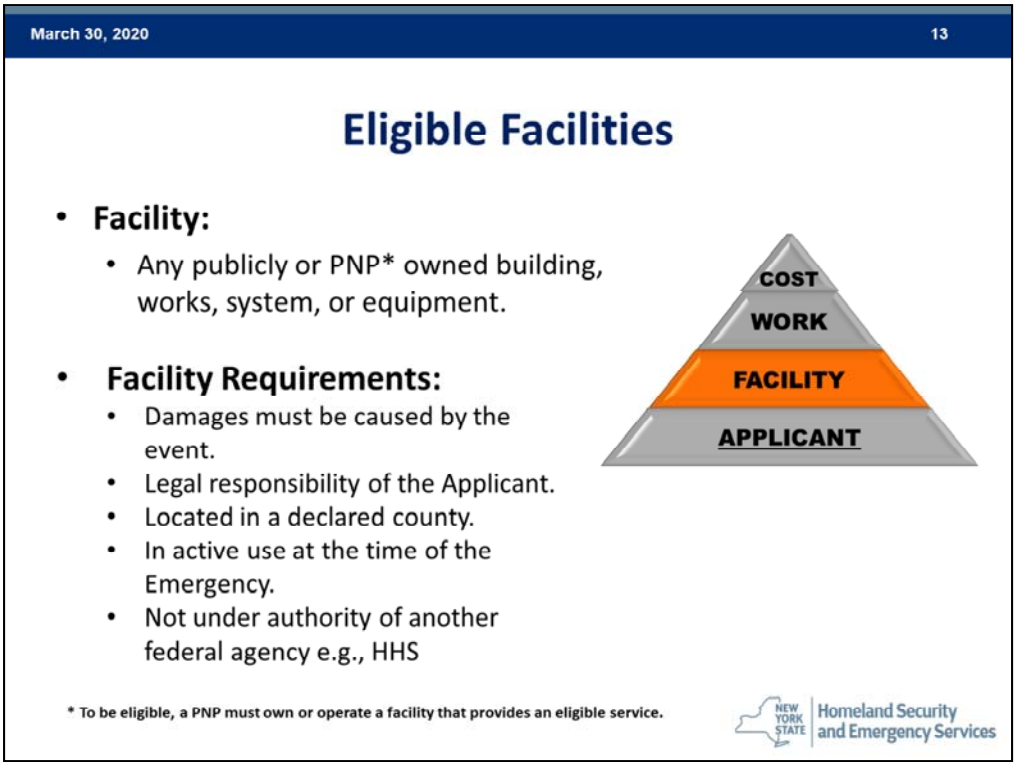
PNPs are required to submit additional documentation before FEMA will approve their RPA. The list shown on the slide is the minimum documentation usually required. In certain cases, FEMA/DHSES will contact the PNP with a request for additional information. With the potential for a large number of Not for Profit Applicants in this event, it is essential that we receive the required documentation as quickly as possible so we can forward to FEMA for review and approval. If you have a potential PNP Applicant who is not familiar with the process or documentation required, please refer them to DHSES and we will assist them through the process.



The next tier of eligibility is the facility. For many municipalities, there may not be a physical facility involved in this event and their costs may be comprised of services they provided to the public in response to COVID-19. For Private Non-Profits however, they must show that they operate an eligible facility i.e. Hospital, Clinic etc., in order to be considered an eligible Applicant. You can see the criteria for the Facility on this slide.

The last bullet is included to point out that many applicants may be receiving Federal aid from multiple Federal Agencies like Health and Human Services. We need to make sure we capture and document where that aid or Direct Federal Assistance is coming from and where it is being utilized to avoid duplication of benefits under the Public Assistance Program. We will discuss this further later in this presentation.

Eligible Work

- **Work Performed Must Be:**

  1. Required as a direct result of a declared emergency.
  2. Legal responsibility of an eligible Applicant performing the work.
  3. Located in a declared county.
  4. Completed within regulatory time limits.

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The next tier is work. In this event we are looking only at Emergency Protective Measures. Applicants must clearly identify the work and how it is directly related to the COVID-19 event. Regulatory completion time limits do apply to all your projects and we will discuss these limits on the next slide.

Deadline for Completion of Work

- Emergency Protective Measures Deadline for DR 4480: **September 19, 2020**
  - 6 months from date of declaration (March 20, 2020)
  - NYS can grant a 6-month extension upon request
  - Further extensions require approval by FEMA

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For costs to be eligible, they must be *incurred* within the approved period of performance. For Category B projects, the approved period of performance for this disaster begins on January 20, 2020 and ends 6 months after the declaration date, which would be September 19, 2020. New York State has authority to extend that deadline by six months with justification. Any further time extension would require approval from FEMA.

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Emergency Work

Category B – Emergency Protective Measures:

Actions taken before, during, and following a disaster to save lives, protect public health and safety, or eliminate immediate threat of significant damage to improved public and private property

- **First major disaster for a medical emergency**
- **First instance of applying FEMA Emergency Protective Measures in a major disaster declaration for a pandemic response**
- **Discussions regarding eligible work activities and costs are still very much underway with FEMA**

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DR 4480 was declared only for Category B – Emergency Protective Measures. No other Category of work is eligible. However, Category Z projects to reimburse applicants for Management Costs will be discussed later in this presentation.

This is the first time a major federal disaster declaration has been declared for a medical event and the first time that emergency protective measures have been eligible for reimbursement through the FEMA Public Assistance Program for a major disaster declaration based on a medical/pandemic event.

Due to this unprecedented event, the State is working closely with FEMA to provide as much specificity as possible on what costs and activities are eligible. These discussions are ongoing and we will update you as things change through FEMA fact sheets on our website.

Emergency Work

Category B – Emergency Protective Measures. Examples for COVID-19:

Examples for COVID-19:

- ✓ EOC Operations
- ✓ Emergency Medical Care
- ✓ Medical sheltering
- ✓ Medical supplies & equipment
- ✓ Provision of food, water, ice, medicine, and other essential needs
- ✓ Security and law enforcement for temporary facilities
- ✓ Communications of general health and safety information to the public

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This slide provides some examples of emergency protective measures that may be undertaken for the COVID-19 response.

This list is by no means all inclusive and in this event there may be some leeway for previously undefined measures that are feasible and necessary to address this unique situation.

These are the examples currently listed on FEMA's COVID-19 fact sheet.

If you have a question on a specific measure undertaken or expense you incurred or expect to incur, please raise that issue as you develop your project(s) in the Grants Portal so we can respond with appropriate guidance.

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Emergency Protective Measures: Non-Congregate Sheltering

- Non-congregate sheltering includes locations where individuals have a level of privacy (e.g., hotels, motels and dormitories).
- Must be pursuant to the direction of appropriate public health officials and not extend beyond the duration of the Public Health Emergency.
- Limited to that which is reasonable and necessary to address the public health needs of the event (more detail on next slide).
- Subject to prior approval by FEMA.
- Ongoing discussions with FEMA regarding eligibility criteria for non-congregate sheltering.

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FEMA recognizes that non-congregate sheltering may be necessary in this Public Health Emergency to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of further widespread infection. When existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs, the following criteria must be considered before setting up non-congregate sheltering and support services:

- The non-congregate sheltering must be at the direction of and documented through an official order signed by a state, local, tribal, or territorial public health official.
- Any approval is limited to that which is reasonable and necessary to address the public health needs of the event and should not extend beyond the duration of the Public Health Emergency.
- Applicants must follow FEMA's Procurement Under Grants Conducted Under Exigent or Emergency Circumstances guidance and include a termination for convenience clause in their contracts.
- Prior to approval, the applicant must provide an analysis of the implementation options that were considered and a justification for the option selected.
- The funding for non-congregate sheltering to meet the needs of the Public Health Emergency cannot be duplicated by another federal agency, including the U.S. Department of Health and Human Services or Centers for Disease Control and Prevention.
- Applicable Environmental and Historic Preservation laws, regulations, and executive orders apply and must be adhered to as a condition of assistance.

DHSES is working actively with FEMA to get specific guidance on the eligibility of certain costs and activities related to medical sheltering. DHSES will continue to pursue clarity on this issue with FEMA and we will share details on that with you as soon as they are available.

Eligible Costs

Eligible Costs:

- Labor
- Equipment/Materials
- Contracts
- Management Costs

Costs Must Be:

- Reasonable and necessary to accomplish the work.
- Compliant with Federal, State AND Local procurement requirements.
- Reduced by any applicable credits such as insurance and other funding sources.

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The key here is that all costs must be documented and comply with appropriate guidelines, and they must also be reasonable and necessary to protect the public from the COVID-19 event. We will next cover various cost categories, starting with labor.

Force Account Labor

- **Employee Annual Salary or Hourly Rates Plus Fringe Benefits**
- **Under Emergency Protective Measures (Category B):**
  - Permanent employees are only eligible for overtime while performing eligible work.
  - Temporary employees are eligible for both regular time and overtime while performing eligible work.

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Force Account Labor costs are for the Applicant's employees, both full-time and those that may have been hired as temporary employees to address the COVID-19 situation. For permanent employees, only their overtime used on DR 4480 work is eligible. Their regular work time is not eligible. For temporary employees hired to work on DR 4480, both regular and overtime cost are eligible.

In addition, fringe benefit costs for eligible hours are also eligible and you may be asked to calculate an average fringe benefit hourly rate for your employees.

For all Labor costs, you will be required to provide supporting documentation to include employee name, title, time sheets, work performed, location, date, and hours worked, separating overtime and regular time. Documentation is key to expediting your project through the process.

Force Account Equipment

Must be performing eligible work:

- Auto/Truck – mileage or hourly rate
- Other equipment - hourly rate
- Intermittent Use:
  - Half day or more = Full Day
  - Less than half day = Actual Hours

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Force Account Equipment costs are for equipment you own, lease or purchase for necessary use for DR 4480. The equipment/vehicles you own are normally reimbursed based on an **hourly rate**. Leased/rented equipment is based on the rental/lease agreement, and purchased equipment may be reimbursed based on purchase cost minus salvage value.

When claiming reimbursement on an hourly rate, FEMA allows credit for a **full work day** when the equipment is used for half the work day or more. For example, you have a vehicle that transports medical equipment to a temporary medical facility. The equipment is then off loaded and used for 5 hours at the temporary facility and then is loaded back on the vehicle and returned to its origin. The vehicle use is only eligible for the actual hours in transit to and from the site, but the equipment used at the facility for 5 hours is eligible for the entire work day because it was used for more than half of the regular work day.

Once again we stress documentation. FEMA will want to know the type of equipment (including size and capacity), date, hours used, location, purpose, operator information and rate. Copies of log books may also be required

Equipment Rates

- FEMA equipment rates are used for determining project costs (estimating & comparing).
- Local rates or rental costs can be used if different than FEMA and established prior to the disaster.

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FEMA has cost codes establishing equipment rates which are normally used to reimburse equipment usage, but Applicants can use local rates if they were established **prior to the event**. FEMA cost codes are normally more advantageous except perhaps in high cost areas where local rates may be higher. Applicants can select the FEMA rates or their local rates but **must use the same method for all of their projects**.

Force Account Materials

- Purchased or used from stock.
- Used for eligible work.
- Invoices, historical data, or quotes from your local vendors will be required to justify cost.

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Force account materials are those that you either use from your stock or purchase for use in the event. If you have invoices for your stock items, they can be used to establish costs, or you can get 3 quotes from local vendors to establish costs.

You do not have to replace the items taken from stock in order to submit for reimbursement for that stock used in response to the COVID-19 event.

Keep in mind, that items you purchase must meet all contracting and purchasing requirements and be fully documented.

Donated Resources

Volunteer Labor:

- Rate is the same as either similar paid employees within an applicant's organization or, if none, similar work done by a local paid organization. Can also use FEMA rate established for the Disaster.
- Value of Volunteer Labor = (Determined Labor Rate) * (Number of Volunteer Hours).

Donated Resources:

- Credit towards the total local cost share of Emergency work; rate is determined by local rates (if established) or FEMA equipment rates.
- Value of Donated Resources = (Determined Equipment Rate) * (Number of Equipment Hours).
- Materials costs based on local quotes.

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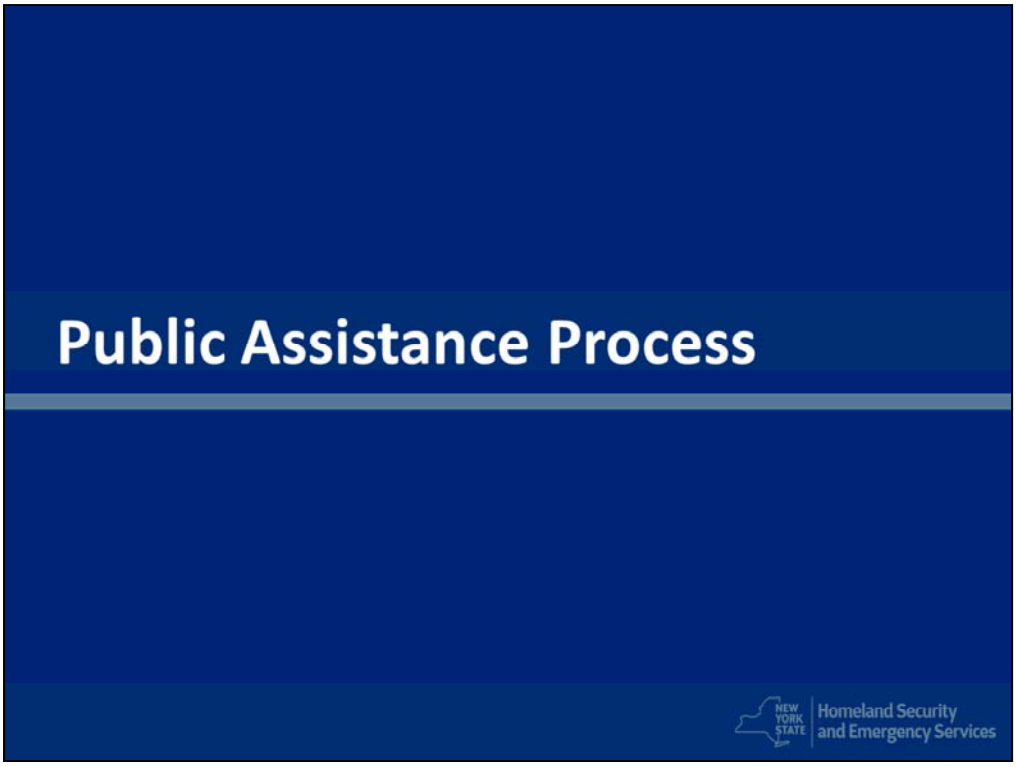
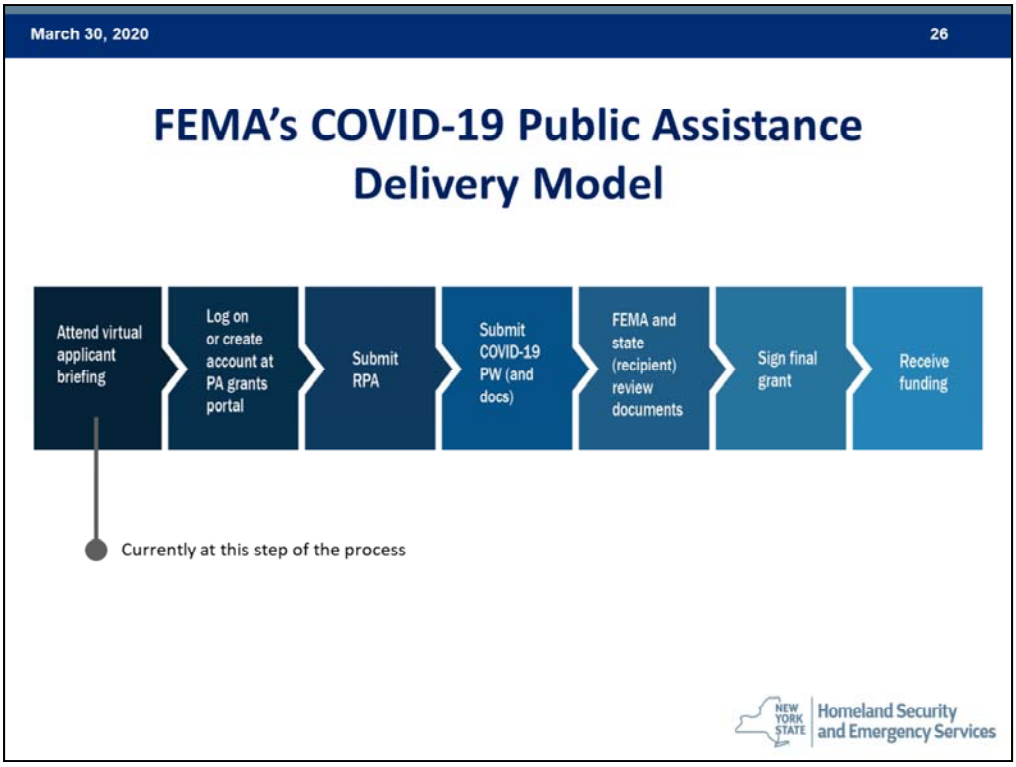
Donated resources, whether labor, equipment or materials, can be used to offset the local cost share of emergency work. In DR 4480, the disaster is set at 75% Federal cost share, which means Applicants will have a local cost share of 25%. Donated resources can be used to offset that local cost share.

FEMA will create a separate project to capture all donated resources for the Applicant, so it is essential that you document all donated resources in detail with who, what, when, where and why.



Now we will cover the Public Assistance Process.



For this unprecedented event, FEMA is using a modified Delivery Model in order to expedite the process and get much-needed funds to the Applicants as quickly as possible. We are at the first step in this process in conducting these virtual Applicant briefings, and we will cover the remaining steps in this presentation. Those of you who are familiar with normal FEMA delivery processes will see significant changes.

FEMA's DR 4480 Public Assistance Delivery Model

- FEMA Grants Portal accounts will be created for applicants who don't already have one.
- RPAs will be submitted in Grants Portal.
- FEMA is creating a standard template for Projects.
- Applicants answer template questions, upload documentation and cost estimate and submit their project(s) in Grants Portal.
- No Exploratory Calls or Recovery Scoping Meetings. Few projects will require a site visit.

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The first step is for Applicants to have Grants Portal accounts established which we will discuss in a moment. Once your account is established, DHSES will submit your Request for Public Assistance (RPA) in Grants Portal. Once FEMA approves your RPA, you will be able to submit projects in Grants Portal.

FEMA will not be conducting Exploratory Calls or Recovery Scoping Meetings for DR 4480. Some projects, such as the creation of, or relocations to temporary facilities may require a site visit, but the majority of projects will not require a site visit.

Applicants will enter information on the project template, provide documentation as required by the template, provide a cost estimate and submit the project. However, it's important to stress that you may be required to provide additional documentation at some point so it is essential to continue to maintain complete and accurate records. This applies not only to the costs you incur, but also to the funding you receive since some costs may be covered by multiple funding streams.

Participants in the Public Assistance program are required to maintain their own file containing all documentation necessary to support their subgrant. Please be aware that uploading documents to Grants Portal does not satisfy this requirement. Your office must maintain its own, separate file for audit purposes.

FEMA's DR 4480 Public Assistance Delivery Model

- Applicants may request an Expedited Project which, if approved by FEMA, can be funded at up to 50% of estimated costs upon obligation.
- FEMA Environmental/Historic Preservation reviews will be expedited for most projects as they are likely to have little to no potential impacts.

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The FEMA project template will identify Expedited Project criteria whereby projects may be processed with a Scope of Work, Cost Estimate and minimal supporting documentation. Once again, this does not mean that you should not continue to gather the documentation, as full documentation will be required to close the project out and receive full funding. FEMA will review the cost estimate and Scope of Work for reasonableness. Expedited Projects are initially funded at up to 50% of the original approved estimate. Subsequently, the applicant must request that FEMA create an amendment to capture full actual costs once the applicant is able to provide all necessary documentation.

FEMA will also expedite most Environmental and Historic Preservation (EHP) reviews via a broad approach for activity types that are likely to have little to no potential environmental or historical impacts.

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The Grants Portal Account

- If your organization **has a Grants Portal account**, you should see something like this when you log into your account:

> ⚠ Your parent organization has been assigned as the primary Grantee for one or more disasters and you may submit a Request for Public Assistance (RPA) to FEMA's Public Assistance program. ×
>
> **Click here to submit a RPA for your organization.**

- If you **do not have a Grants Portal account**, DHSES will create one upon receipt of the below ***required*** information:
  - Applicant Name
  - Type of Applicant*
  - **Federal Employer ID#**
  - Primary office location
  - Street Address
  - City
  - State
  - Zip
  - County
  - Primary Contact
  - First Name
  - Last Name
  - Title
  - Phone Number
  - Email

*Types of Applicants: State Government, County Government, City, Town, Village or Special District Government; Public/State Controlled Institution of Higher Education; Regional Government Organization; Independent School District; Public/Indian Housing Authority; Federally Recognized Native American Tribal Nation Government or Designate Organization; Nonprofit with 501C3 status; Nonprofit without 501C3 status; Other

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Grants Portal is a web-based application used for managing FEMA Public Assistance projects. Grants Portal is the Applicant's side of this system; Grants Manager is the FEMA side of the same database.

If your organization already has a Grants Portal account due to participation in one of New York's recent federally declared disasters (DR 4348, DR 4397 or DR 4472), when you log in to your Grants Portal account you may see the banner on the screen prompting you to submit your RPA for the new declaration. Simply click as directed and follow the instructions as prompted.

If you do not already have a Grants Portal account established, this slide identifies the ***minimum*** information required for DHSES to establish an account for you. Please note that the Federal Employer Identification Number is in bold to make sure that you include it. We need it to establish your Grants Portal account.

DHSES will submit your RPA in Grants Portal once you send the completed RPA form to us. The next slide is a sample email with the temporary password and invitation to log in. Note, PNPs must submit their RPA to DHSES to establish a Grants Portal account. Governmental entities now have the ability to create their Grants Portal account directly, by visiting grantee.fema.gov.

Grants Portal Password Invitation

- Once your account is created, you will receive an email with a temporary password and inviting you to create a new password. Click on the link and follow directions.
  - Please make sure your spam filter is set to allow receipt of emails from support@pagrants.fema.gov

From: support@pagrants.fema.gov [mailto:support@pagrants.fema.gov]
Sent: Wednesday, February 01, 2017 3:11 PM
Subject: FEMA PA Notification - Org Account Request Approved

Hello Sherry,

Your organization account request has received final approval. You may now log in to the Grants Portal with the temporary username and password:

Username: comanager@subrecipientcountyga.com ← Your email address
Password: LJE1kAvc!%

Please click here to sign in with your temporary password. You will be required to change your password upon login.

-FEMA PA Support Team

FEMA-PA-Support@FEMA.DHS.Gov
https://pagrants.fema.gov

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Once you have provided the required information to DHSES, we will create your account and you will receive an email with a temporary password and an invitation for you to log in and create a new password. If you don't receive the email, please check your spam filter to make sure it is not in a spam or junk mail folder.

Request for Public Assistance (RPA)

- **Date of Declaration:** March 20, 2020.
- ***FEMA has set an open period for RPA submission for COVID-19. No RPA deadline currently in effect for DR-4480.***

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We will now discuss one of the most important topics for this Applicants Brief, which is the Request for Public Assistance or RPA.

The RPA is the form submitted to FEMA to request to be an Applicant in the disaster. Normally, the Request for Public Assistance (RPA), must be submitted within 30 days of the declaration date, which would be April 19th. However, for DR 4480, that provision has been waived and we currently have an open enrollment period. We will advise everyone if FEMA does set a deadline for RPA submission. In any event, we highly recommend that Applicants submit their RPAs as soon as possible, so we can review them and forward to FEMA for their review and approval.

The RPA Form

- Applicant Physical Location
- Primary Contact Information
- Applicant Name, County, and Date

DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
REQUEST FOR PUBLIC ASSISTANCE

Paperwork Burden Disclosure Notice

Privacy Act Statement

APPLICANT (Political subdivision or eligible applicant) | DATE SUBMITTED

COUNTY (Location of Damages. If located in multiple counties, please indicate)

APPLICANT PHYSICAL LOCATION

STREET ADDRESS
CITY | COUNTY | STATE | ZIP CODE

MAILING ADDRESS (If different from Physical Location)

STREET ADDRESS
POST OFFICE BOX | CITY | STATE | ZIP CODE

Primary Contact/Applicant's Authorized Agent	Alternate Contact
NAME	NAME
TITLE	TITLE
BUSINESS PHONE	BUSINESS PHONE
FAX NUMBER	FAX NUMBER
HOME PHONE (Optional)	HOME PHONE (Optional)
CELL PHONE	CELL PHONE
E-MAIL ADDRESS	E-MAIL ADDRESS
PAGER & PIN NUMBER	PAGER & PIN NUMBER

Did you participate in the Federal/State Preliminary Damage Assessment (PDA)? ☐ YES ☐ NO

Private Non-Profit Organization? ☐ YES ☐ NO

If yes, which of the facilities identified below best describe your organization?

Private Non-Profit Organizations must attach copies of their Tax Exemption Certificate and Organization Charter or By-Laws. If your organization is a school or educational facility, please attach information on accreditation or certification.

OFFICIAL USE ONLY: FEMA - -DR- - FIPSI DATE RECEIVED

FEMA Form 009-0-49 9/18 PREVIOUS EDITION OBSOLETE

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This slide shows a copy of the RPA form that you must complete and submit to DHSES in order to participate in DR 4480. Although the form says it expires December 31, 2019, it is still valid and accepted by FEMA.

The RPA Form

- The RPA form can easily be found online by clicking the appropriate link:
  - For governmental entities: Governmental Entity RPA Package
  - For PNPs: PNP RPA Package
- Please complete the RPA form and email to patricia.debboli@dhses.ny.gov or fax to (518) 322-4984.

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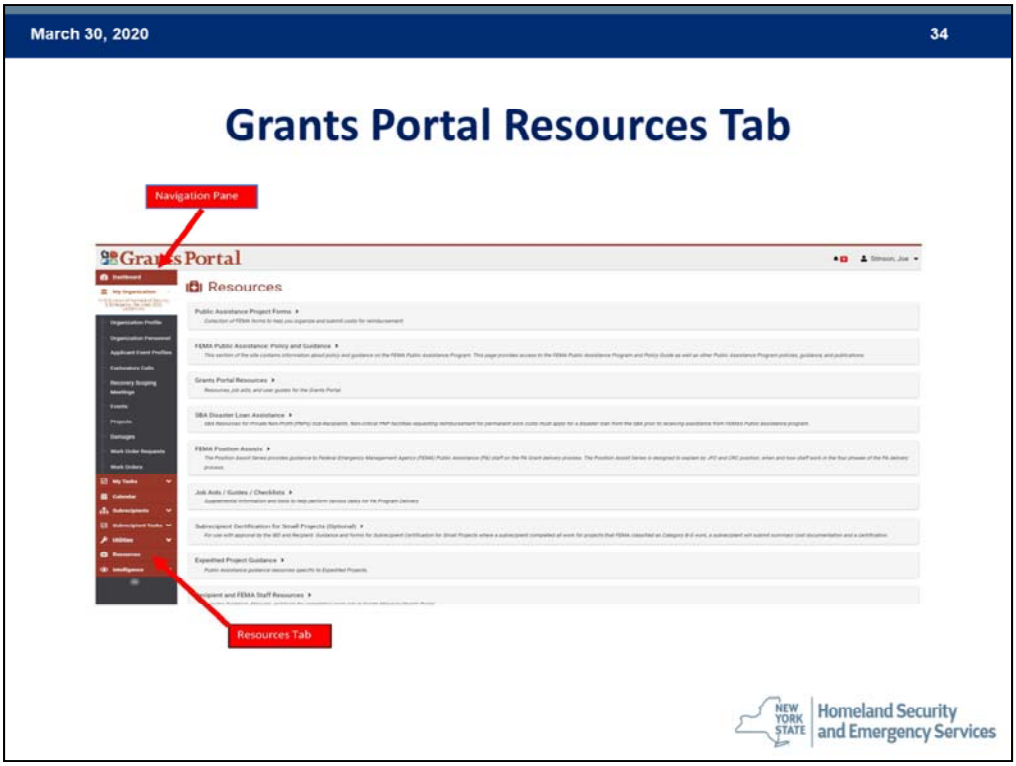
RPA packages can be found on the DHSES Recovery website for DR 4480, or by clicking on the appropriate link on this slide. Once you have filled the appropriate package out, please send it to DHSES via the e-mail address or fax number shown on the slide.



Once Grants Portal accounts are established and your RPA is submitted and approved, FEMA and DHSES will coordinate Grants Portal training for applicants who may need it. However, as soon as you log into your account you have access to a wealth of information about Grants Portal and the Public Assistance Program. In Grants Portal, the column on the left is called the Navigation Pane, which contains a variety of tabs. Second from the bottom, you will find the Resources tab. When you click on the Resources tab, you will find a very useful collection of guides, policy and job aides. Click on the topic of interest to expand the documents available for viewing. DHSES and FEMA personnel are available to help you navigate Grants Portal.

The next area we will cover is contracts and procurement.

Procurement

Must comply with ALL federal, state, and local procurement requirements:

- DHS OIG Audits are paying particular attention to ensuring Minority and Women Owned Businesses are actively solicited during bid process (follow link to locate MWBE enterprises: http://esd.ny.gov/mwbe.html)
- Applicants must comply with 2 CFR Part 200. Specifically, all contracts must include the contract provisions identified in Appendix II to Part 200. 2 CFR, OMB Circular A-87, A-102, A-133 and 41 U.S.C. 403(11) all provide guidance on procurement and audits.
- Declaring or extending a State of Emergency solely to circumvent procurement procedures is a red flag for any audit.

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All contracts and purchases must comply with all local, State and Federal procurement requirements. While some requirements may be suspended in the types of circumstances we're seeing with COVID-19, it is prudent to make sure your contracting and purchasing folks are taking all reasonable steps to comply with whatever requirements apply and follow the appropriate guidelines.

For example, one important federal requirement to note is the requirement to **actively solicit** Minority and Women Owned Enterprises. FEMA staff will be reviewing contracts, and the federal DHS OIG will be looking for compliance with this requirement in their audits. All projects are subject to audits by both the State and Federal OIG. Detailed procurement guidance, including procurement in emergency and exigent circumstances, is available on FEMA's website, through the Resources Tab in Grants Portal, and has been posted on the DHSES Recovery website for this disaster.

Contracts

- Must comply with all State, Local and Federal procurement requirements.
- All contracts incurred for eligible work will be reviewed by FEMA / State teams; including rental equipment.
- Competitively bid under applicable procurement procedures are preferred.

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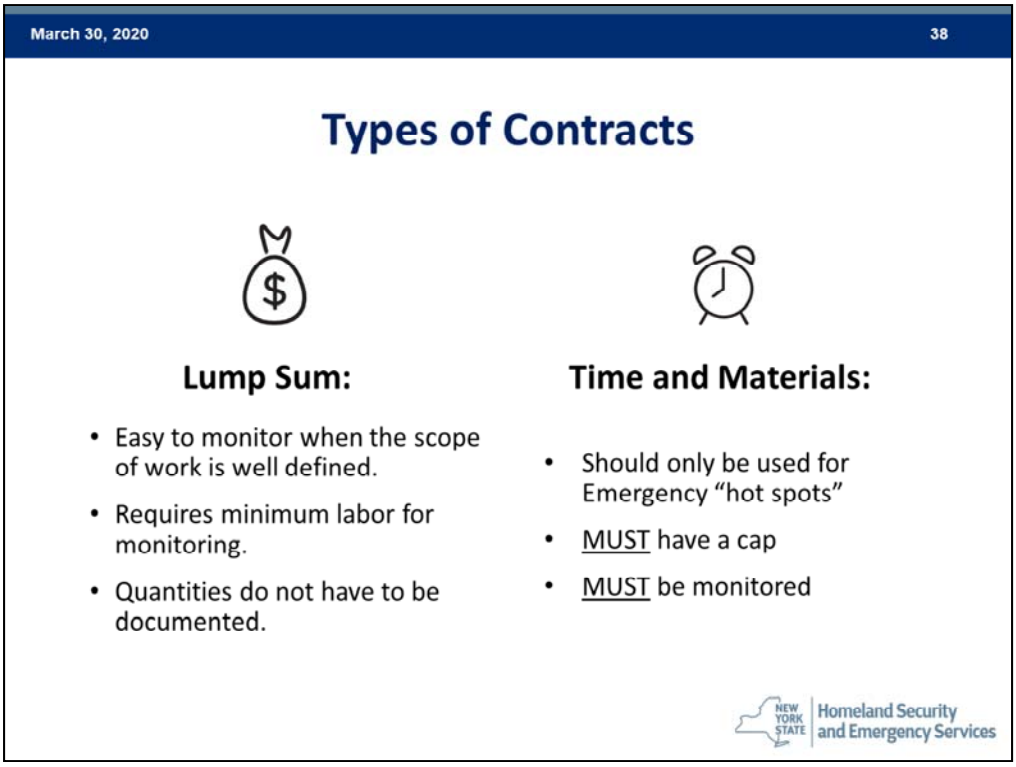
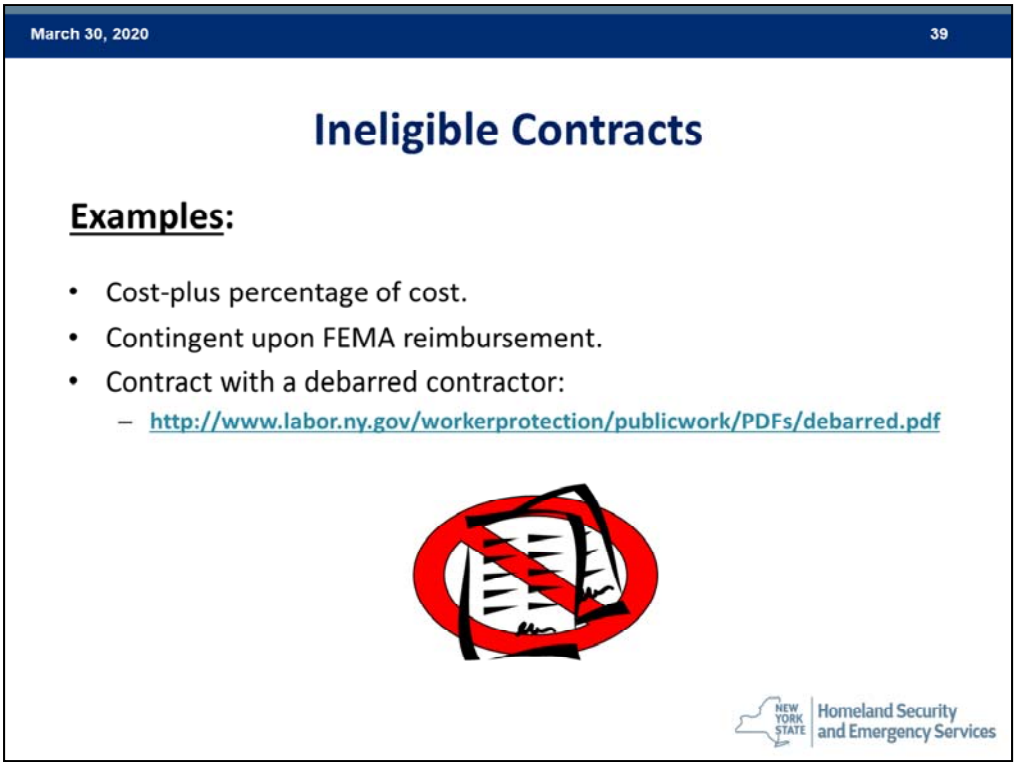
Again it bears repeating. Make sure all contracts follow the appropriate guidelines with the understanding that FEMA staff will be looking at the contracts closely. The preferred contracts are those that are competitively bid.



Lump sum contracts are acceptable and require minimum monitoring by the applicant, as you don't have to document the quantities separately. Time and material contracts can be used but there are some explicit restrictions. Time and Material contracts must have a cap., which the contractor exceeds at its own risk. For example, a cap not to exceed $200,000 or a cap not to exceed 70 hours of work.

The intent behind allowing time and materials contracts is to allow an Applicant to respond to the immediate needs while giving the Applicant time to utilize their normal procurement procedures for scopes of work that will continue for a prolonged period of time.



Be aware of types of contracts that may jeopardize reimbursement.

A cost plus percentage of cost contract is where a contractor says they will do the work for whatever it costs them plus a percentage of that cost. For example, the contractor spends $100,000 on the work and the percentage agreed on is 15%. The contractor receives $115,000. In this type contract there is no incentive for the contractor to work efficiently and swiftly. The more time he takes, the larger his profit. This is an ineligible contract and FEMA may make your project ineligible if you use it.

Contracts that state that they are contingent on the Applicant receiving reimbursement from FEMA are also ineligible. Examples include contracts that say the Applicant will pay the contractor “whatever FEMA pays” or will “pay if or when FEMA pays.” Such contracts are ineligible. You must act using your normal procurement procedures without any reference to reimbursement from FEMA.

The last point is – avoid contracting with a debarred contractor. Make sure your contracting folks are checking the list to make sure they are not dealing with one as that contract will be ineligible.

Women/Minority Owned Businesses

- Applicants must be able to demonstrate direct outreach to MWBE enterprises. (Effective 1/1/2015).
- DHS OIG Audits will ensure Minority and Women Owned Businesses are sought during bid process.

- Procurement and Audit Guidance:
  - 2 CFR
  - OMB Circular A-87, A-102, A-133
  - 41 U.S.C. 403 (11)
  - http://esd.ny.gov/mwbe.html

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We mentioned Minority and Women Owned enterprises and the requirement to actively solicit them. This does not mean simply putting it in the newspapers as part of your bid process. For example, language in a publication that says “MWBE enterprises are encouraged to reply” does not satisfy the requirement to actively solicit them. You need to identify MWBE contractors in your area and show active solicitation via e-mail, telephone contact or regular mail and invite them to bid on your project. Failure to do so may make your project ineligible.

Management Costs

- Direct and indirect administrative costs incurred to submit and process your FEMA project(s).
- Actual Costs must be fully documented.
- Capped at a maximum of 5% of the Applicant total obligated project costs.

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FEMA will reimburse an applicant's direct and indirect administrative costs incurred for submitting and processing its FEMA projects. Reimbursement is based on actual, documented administrative costs and is capped at 5% of the total of your obligated Cat B project(s). FEMA automatically creates a separate Category "Z' project for Management Costs for each Applicant. Applicants must submit full documentation of Management Costs. The federal share on Cat Z projects is 100% (subject to the 5% cap based on total obligated Cat B projects).

Management Costs

- Required to manage projects administratively.
- Do not include costs incurred for actual work to complete a project.

- **Eligible Costs Include:**
  - Site identification
  - Gathering of cost information
  - Site visits
  - Project scope, development
  - Project reporting
  - Project cost reconciliation and closeout
  - Preliminary Damage Assessments
  - Applicant's Briefings
  - Recovery Scoping Meetings
  - Recovery Transition Briefings
  - Travel Costs
  - Consultant Costs

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Please begin capturing your administrative costs, including the costs incurred to attend today's Applicant's Briefing. You will need to document your administrative costs before requesting closeout and reimbursement for your Cat Z project.

Special Considerations

Key Focus Areas:

1. Insurance – Normally, Emergency Work is not covered by standard Insurance Policies. However, FEMA will want documentation to show that any applicable insurance coverage was pursued.

2. Duplication of benefits – Federal and State funds received to combat the virus will have to be deducted from any eligible project if used for any portion of that project.

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Special Considerations – The key thing to remember here is that FEMA is the payer of last resort. This means that all other funding provided on a project is taken into account first and deducted from the costs eligible for reimbursement under FEMA's Public Assistance Program.

The most common additional funding source is typically insurance. If the damages are covered by insurance, FEMA will require the Applicant to file a claim for those damages with their insurance carrier and will deduct the proceeds of that claim from the total eligible costs for the Public Assistance grant.

In DR 4480, there is a particular likelihood of other grant funding sources, such as grants available through the U.S. Department of Health and Human Services. It is critical that applicants be able to report on all funding sources received *and how those funds were applied* so FEMA can ensure that no duplication of benefits has occurred under the Public Assistance Program.

Next, we will cover some need to know facts about projects.

Project Facts Applicants Need To Know

- Federal Share for this Disaster: **75%**
- How Projects Qualify:
  - Minimum Threshold = **$3,300**
  - Small Projects = **Under $131,100**
  - Large Projects = **$131,100 and Over**

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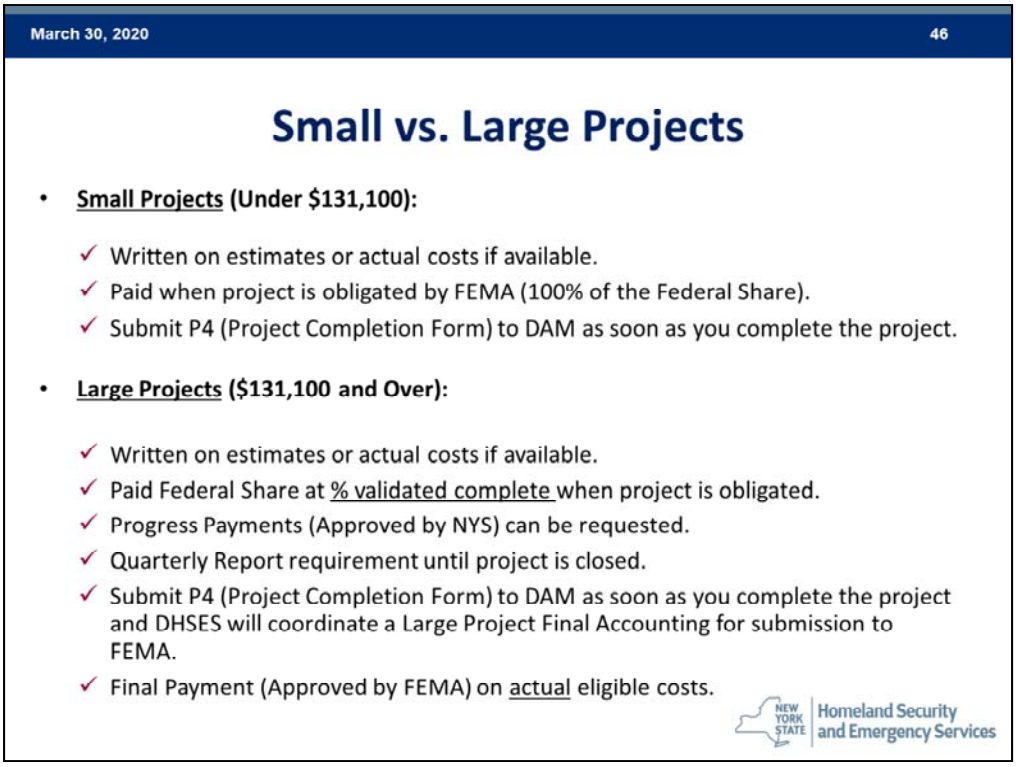
You must meet certain monetary threshold for projects. In order to qualify, a project must have eligible costs of at least $3,300. All projects are then categorized as either a small project or large project. Small projects are those under $131,100 and large projects are those at $131,100 and over.



Let's discuss some differences between small projects and large projects and the requirements for each.

The first main difference between small projects and large projects is with regard to the payment received when the project is obligated. NY is a pass through State, which means that when FEMA obligates a project, it transfers the funds for that project to the State. For a small project, DHSES Finance will then pass through the Federal share of that project to the Applicant regardless of whether the project is complete or not. For large projects on the other hand, DHSES Finance will only pass through the Federal share at the percent the project is listed as complete. For example, if a project is obligated for $1 million dollars at 25% work completed, the Applicant will only receive the Federal share (75%) of $250,000.

The second main difference between small and large projects is with regard to closeout requirements. Small projects require no formal closeout process, but do require that the Applicant submit the P-4 form, which is the certification by the Applicant that they have completed the authorized scope of work for the project. Large projects, on the other hand, must be paid on ***actual costs***, so they require a formal closeout. A P-4 form must also be submitted on large projects when the work is completed, to trigger the Large Project Final Accounting process.

For large projects, there is a quarterly reporting requirement as long as the project remains open.

Formulation of Projects

- **NYS DHSES Disaster Assistance Representatives (DARs):**
  - Available to help develop scope of work and cost estimates.
  - Technical Specialists can assist with complex projects.
- **Technical Specialists:**
  - Hospitals
  - Schools
  - Insurance

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We have covered a lot of ground and understand that there is much to absorb with respect to the Public Assistance Program. FEMA and State personnel are available to assist you in developing and organizing your costs and damages into logical projects. Federal and State Public Assistance staff have a lot of experience in many areas and we can call on their expertise if you encounter a challenging situation or project.

Various Parts of Project

- **Basic Information -** Applicant, Location, Category of Work, etc.
- **Damage Description and Dimensions (DDD)** – What conditions did the virus cause?
- **Scope of Work (SOW)** – Actions to Protect lives and public safety in response to the virus.
- **Cost Estimate**
- **Attachments** - Documentation of Costs, Contracts, Proof of Payment etc.

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These are the various elements of a project that will be necessary to develop in order to process your project(s). This is not the typical kind of natural disaster that causes damages to buildings and roadways. This pandemic event will require documenting the activities and costs incurred in responding to the virus. The most important thing to remember is make sure you have all of the required documentation to support your project. This includes invoices, contracts, insurance policies, claims and settlements, actual costs, personnel policies, procurement documentation, proof of payment, etc. If you do not provide the required documentation, FEMA may issue a Request for Information (RFI) and withhold reimbursement until you comply.

Info Required for a Project

- List of Damages, Emergency Protective Measures undertaken.
- Insurance information.
- List of paid staff, regular and OT hours – dates and times.
- Fringe Benefits information.
- List of equipment used, hours of operation – dates and times, miles driven.
- List of materials and supplies purchased or used.
- Copies of any contracts used for this event.
- Procurement Policies and documentation of compliance.

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Here are the standard items that we encounter and deem necessary for most projects. When you are working on developing your projects, keep these in mind and make sure you have what is needed to support that project. Again, we cannot stress enough the importance of documenting all of your actions and costs in support of your projects.

Recovery Transition Meeting

- Final review with Applicant, FEMA and DHSES to ensure all damages have been captured and submitted.
- Informs applicants of number of projects being entered into system (Large vs. Small).
- Gives opportunity to review and correct projects before transition to your DHSES Disaster Assistance Manager (DAM).

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The Recovery Transition Meeting provides an opportunity for the Applicant to review their projects with FEMA and DHSES personnel in order to make sure that all of the eligible work undertaken has been captured in one or more projects and submitted into Grants Portal. It is at this point that you will be transitioned to the DHSES Disaster Assistance Manager for DR 4480 who will then be your primary POC for any further actions that may be necessary including Scope of Work change requests, quarterly reports and closeouts.

Project Notification Folder
(AKA Applicant "Blue Book")

- Sent when FEMA obligates a project:
  - More than one project may be included in a single Blue Folder!
- Includes a copy of the obligated Project.
  - Review carefully!
- Starts 60 Day time clock for appeal of any FEMA determination.
- Includes the Project Completion Form (P-4) that needs to be signed and returned to NYS DHSES DAM when work is completed. Applies to both Large and Small Projects.

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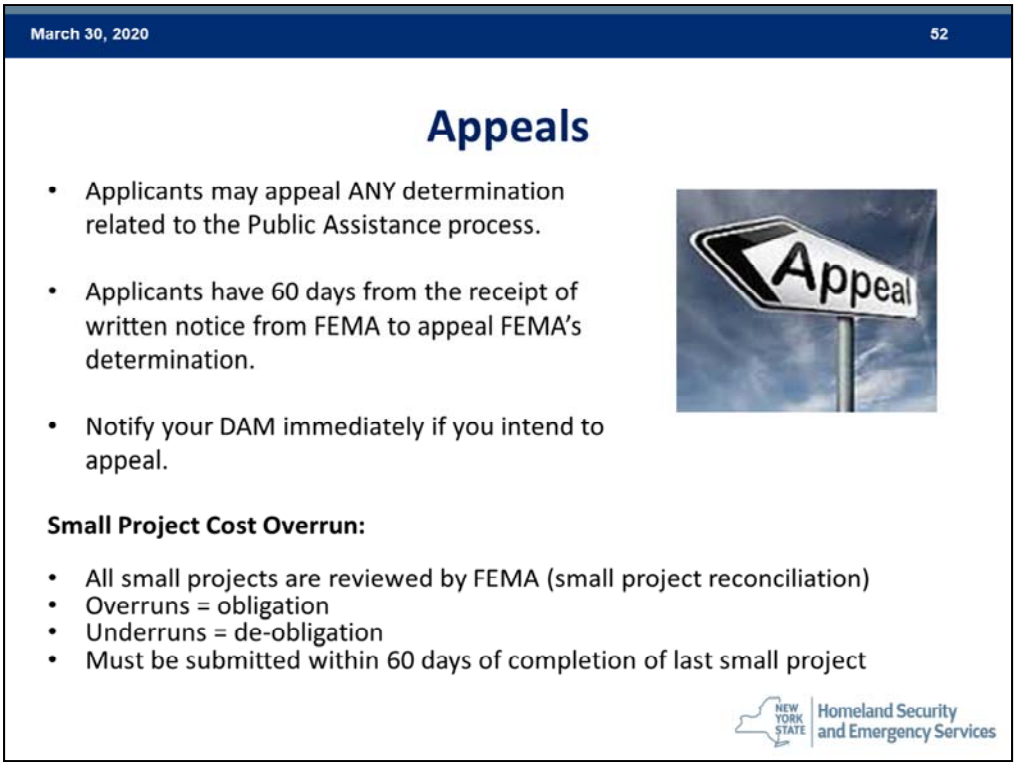
When FEMA obligates your project, you will receive a "blue book" from the DAM. It is called that simply because it comes in a blue pocket folder. It will include a copy of your projects and the P-4 form for you to certify project completion. Please make sure you return this form when your project is complete so DHSES can submit to FEMA and have the project closed in the system. The blue book also starts the 60-day clock for an appeal so please review your projects closely when you receive the blue book and make sure everything is in order. If not, contact the DAM immediately.



An Applicant can Appeal any FEMA determination. You have 60 days from the receipt of notice of the determination, such as the blue book or a FEMA determination letter or memorandum, to submit an appeal on that determination. This 60 day deadline is for submitting your complete appeal package to DHSES, not just a notice of intent to appeal. We have an Appeal team at DHSES who will assist you in developing your appeal upon request.

The small project reconciliation is a particular type of appeal. When a small project is obligated, DHSES Finance will pass through the Federal share of that project to the Applicant regardless of whether the project is complete or not. If, at some point thereafter, you find that the estimate or costs on your small project were insufficient, you may file an appeal for a reconciliation. FEMA will review your actual costs on ***all*** of your small projects, not just the project on which you claim an overrun. If there is a net cost overrun on all of your small projects combined, FEMA will obligate the additional funds. However if it is found that you actually have a net underrun, FEMA may de-obligate the overpayment. Applicants contemplating a request for a Small Project Reconciliation are strongly encouraged to contact the DAM to request assistance.

Appeals

- **First Appeal** – FEMA Regional Administrator
- **Second Appeal** – FEMA Deputy Administrator for Recovery
- **Arbitration:**
  - ✓ Disasters declared after 1/1/2016.
  - ✓ Disputed amount exceeds $500K ($100k for rural areas with population less than 200k).
  - ✓ Applicant filed timely 1st Appeal and was denied or partially denied or FEMA has not rendered a decision within 180 days.
  - ✓ Request made directly to the Board.
  - ✓ Applicant may supplement the record of the first Appeal.
  - ✓ Counsel and expert witnesses allowed but not required.
  - ✓ Expenses, including Attorney fees, paid for by the party incurring the costs.

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There are two levels of Appeal within the FEMA Public Assistance Program. The first level of appeal is to the FEMA Regional Administrator which, in our case, is Region 2 with offices in NYC. The second level of appeal is to the FEMA Deputy Administrator for Recovery in Washington DC.

Arbitration is a relatively new option, where an Applicant can elect to go to Arbitration in lieu of second appeal if certain criteria are met as shown on the slide. While the Applicant can elect to have legal counsel and expert witnesses in arbitration, those costs are not reimbursable.

Funds Are Lost if Applicants Don't

1. **Ask** questions
2. **Obtain** FEMA *pre-approval* to change scope of work
3. **Follow** procurement procedures
4. **Follow** the Scope of Work in the Project
5. **Meet** PA program deadlines
6. **Keep** complete, clear and accurate records

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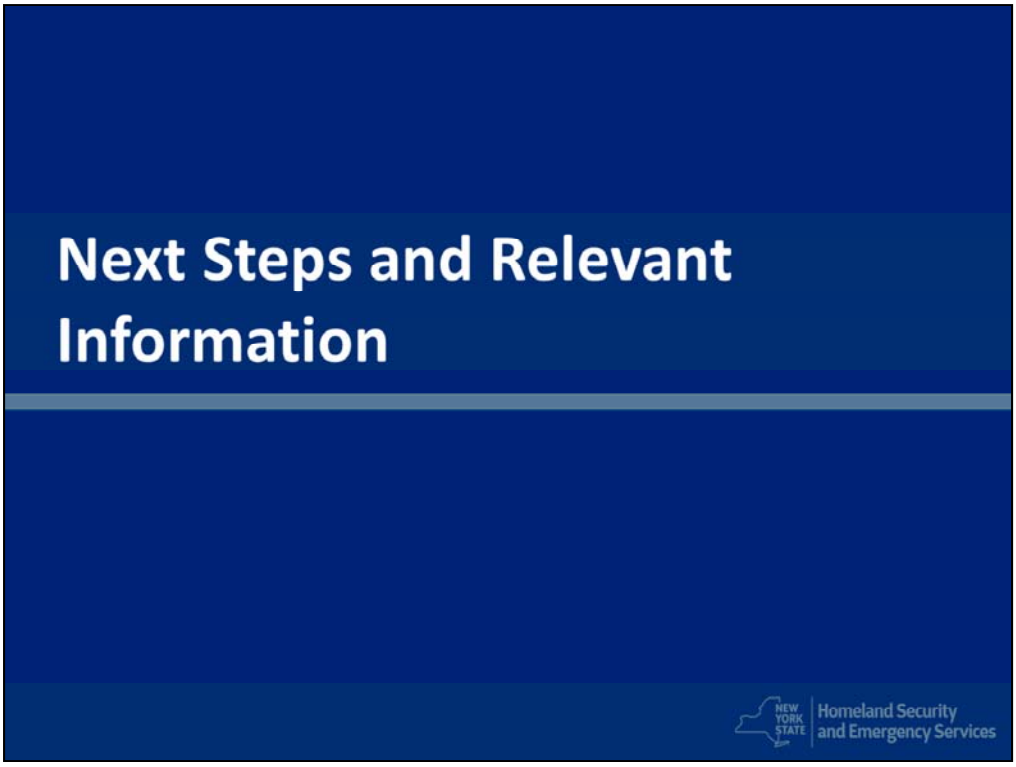
Here are some pitfalls to avoid. Please make sure that you follow all of the procedures, guidelines and regulations, and if you are not sure of something, raise the question to your DAM and get an answer before you proceed.



The final area we will address is next steps and some relevant information.

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What's Next?

1. Supply required information to Patricia Debboli so DHSES can establish your Grants Portal Account if you don't have one already.
2. Submit RPA Package Using Option A or B Below:
   A. If you have a Grants Portal account you can submit at FEMA Grants Portal Website: https://grantee.fema.gov
   B. Submit to Patricia Debboli @ NYS DHSES:
      - E-mail: patricia.debboli@dhses.ny.gov
      - Fax: 518-322-4984

DUNS #'s ARE REQUIRED:
Website: https://fedgov.dnb.com/webform
Phone: 1-866-705-5711

RPA CANNOT BE APPROVED UNTIL ALL RPA DOCUMENTATION IS SUBMITTED

ices

You will need a Grants Portal account. Submit your Request for Public Assistance so DHSES can create your account for you, and you can be approved as an Applicant in DR 4480.

In the coming weeks we anticipate that FEMA's Category B project template will be available in Grants Portal and you can start compiling your project.

Unfortunately, in the pandemic environment, face-to-face meetings with Applicants, DHSES and FEMA personnel are severely restricted. However, FEMA and DHSES will employ the technology necessary to coordinate with Applicants until we return to more normal operations.

On behalf of FEMA and the State of New York, we look forward to assisting you in pursuing reimbursement under the Public Assistance Program.

NYS DHSES Contact Information

Recovery Section:

- 1220 Washington Ave, Bldg. 7A, 4th Floor Albany, NY 12242
- (518) 292-2293, Fax Number: (518) 322-4984
- www.dhses.ny.gov

After the Joint Field Office Closes Please Contact:

- Disaster Assistance Manager (DAM) Kelly Sommerman

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Here is DHSES office contact information if you have any questions.

Additional Information

- Your FEMA/NYS Team (1st Point of Contact)
- NYS DHSES Applicant Handbook – will be published on DHSES website
- FEMA Grants Portal Website (https://grantee.fema.gov)
  - Resources Area Contains User Manual, Forms, and other Information
- NYS DHSES Website (www.dhses.ny.gov)
- FEMA's Website (www.fema.gov)
- FEMA Public Assistance Program & Policy Guide (PAPPG).
- County Emergency Managers

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And this last slide contains some additional resources for you to consider should you need more information on the Recovery process.

Questions?

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