



I. TITLE: Public Assistance Alternative Procedures for Direct Administrative Costs (Version 1.1)

II. DATE: June 12, 2018 (Superseded on October 5, 2018)

III. POLICY STATEMENT:

This policy supersedes the *Public Assistance Alternative Procedures for Direct Administrative Costs*, dated October 25, 2017. The policy authorizes FEMA to award a fixed estimate project to Subrecipients for Public Assistance (PA) Direct Administrative Costs (DAC). The intent of the policy is to simplify and reduce the administrative burden on FEMA, Recipients, and Subrecipients; incentivize Subrecipients to provide timely and complete information and documentation to FEMA; and incentivize timely submission of projects for closeout. FEMA is implementing this policy as a pilot program.

IV. PURPOSE:

This document defines the policy details and implementation procedures for the *Public Assistance Alternative Procedures for Direct Administrative Costs Pilot Program (DAC Pilot)*. It refines the policy and includes the following additional information and changes based on stakeholder questions and feedback:

- Defines requirements and deadlines for participation;
- Eliminates Project Worksheet (PW) version limitations;
- Calculates the DAC lock-in amount for fixed estimate projects funded under the *Public Assistance Alternative Procedures Pilot Program for Permanent Work (Permanent Work Pilot)* based on the final agreed-upon estimate;
- Adjusts the 90-day deadline to submit small project closeouts;
- Defines the deadlines associated with excess funds;
- Defines the DAC PW Period of Performance (POP);
- Defines the DAC PW cost share;
- Adjusts of the effective date to coincide with the *Public Assistance Program and Policy Guide* Version 3.1; and
- Streamlines and re-organizes language for policy clarity.

V. SCOPE AND AUDIENCE:

The policy is applicable to incidents declared on or after August 23, 2017. It is intended for all personnel involved in the administration of the PA Program.



VI. AUTHORITY:

Fixed estimate DAC awards are authorized under Stafford Act Section 428(e)(1), *Public Assistance Program Alternative Procedures*. This policy furthers the goals of the alternative procedures as described in Stafford Act Section 428(c).

VII. OBJECTIVES:

- A. To simplify and reduce the administrative burden on FEMA, Recipients, and Subrecipients as it relates to tracking and requesting reimbursement for administrative tasks associated with PWs. This is achieved by consolidating DAC funding into a single Category Z PW to reimburse DAC for all of a Subrecipient's eligible PA projects; allowing Subrecipients to track direct administrative tasks and related costs for all of its PA projects rather than on a project-by-project basis; and making DAC available for Subrecipients to use for any eligible PA project once the DAC PW is obligated.
- B. To incentivize Subrecipients to provide timely and complete information and documentation to FEMA for the purposes of applying for, administering, and closing PA subawards; and to comply with the federal award administrative requirements described in Title 2 Code of Federal Regulations (CFR) Part 200. This is accomplished via the various deadlines associated with the DAC Pilot.
- C. To incentivize timely submission of projects for closeout. This is achieved by the Recipient withholding 1 percent of the DAC allowance until the respective emergency or permanent work PW is submitted to the Recipient for closeout. Once Subrecipients account for all eligible DAC, it may use any remaining funds on the DAC PW for other eligible PA activities pursuant to Stafford Act Section 428(e)(1)(D).

VIII. POLICY:

A. Recipient Participation

1. If the Recipient does not opt to participate for the respective declared incident, Subrecipients may not participate for that declaration. Recipients should make a decision prior to the Applicant Briefing and no later than the first Subrecipient's request to opt in. Once a Recipient has signed the first Subrecipient's agreement to opt in, the Recipient may not opt out.
2. The Recipient may not use the DAC Pilot for DAC related to Subrecipient projects. However, the Recipient may use the DAC Pilot for DAC related to its own projects, such as a PW for operating an Emergency Operations Center.



3. FEMA will not authorize use of the DAC Pilot on incidents declared prior to August 23, 2017.

B. Subrecipient Participation

1. The DAC Pilot is voluntary. Subrecipients may participate in the DAC Pilot regardless of whether they are participating in either of the PA Alternative Procedures Pilot Programs for Debris Removal or Permanent Work.
2. Subrecipients should inform the Recipient and FEMA of participation within 60 days of the Recovery Scoping Meeting. DAC funding cannot be obligated for any project until the Subrecipient indicates whether or not it is participating in the DAC Pilot. There is an exception in cases where DAC was obligated before the date of this policy version (V1.1). In these cases, if the Subrecipient opts-in, FEMA will de-obligate the DAC on any PW where it was included as a line item and add the respective project's cost into the DAC calculation.
3. If, on or after October 25, 2017, the Subrecipient knows the final DAC costs for any project, it cannot participate in the DAC Pilot (this includes situations where the applicant has either been billed for the final DAC or incurred its final force account DAC even if the costs have not yet been submitted to FEMA).
4. Subrecipients may not select to opt in on an individual project basis. Either the DAC Pilot applies to all of the Subrecipient's projects or the standard DAC policy applies to all of its projects. Subrecipients that elect to participate must include all DAC claims under one consolidated Category Z DAC PW.
5. Subrecipients that elect to participate must sign a written agreement binding them to the provisions of this policy. The agreement is included as Appendix A. Subrecipients may not opt out of the DAC Pilot once the agreement is signed.

C. Fixed Estimate Amount

1. The DAC PW amount is locked-in at 5 percent of the total eligible project costs based on PWs that have been signed and submitted to FEMA within two years of the declaration date (with exception of DAC costs for Permanent Work Pilot projects). When a fixed estimate is developed under the Permanent Work Pilot, FEMA will calculate and lock-in the related DAC amount based on the agreed-upon Permanent Work fixed-estimate amount once the agreed-upon amount is determined irrespective of when it is determined.
2. PWs formulated based on a broad damage description or scope of work due to lack of information or documentation at the time of PW formulation, where the estimate will likely fluctuate significantly (such as for Expedited PWs or PWs that only fund



architectural and engineering design costs), will require the Subrecipient to provide appropriate documentation to support the project amount prior to calculating the related DAC amount for that project. The documentation must be provided to FEMA prior to the two-year deadline. If not received by the deadline, FEMA will calculate the fixed DAC amount for the respective project based on the amount that is supported with documentation.

3. The 5 percent includes a 1 percent closeout incentive, which is held by the Recipient and deobligated if closeout requirements are not met.
4. The 5 percent calculation is based on the eligible project costs prior to insurance and cost share reductions. The calculation does not include costs for Emergency Work donated resource PWs, unreasonable costs, or costs related to ineligible work or projects (including projects below the minimum PW threshold).
 - a. If costs are appealed and the appealed costs are approved within the two-year deadline, FEMA will adjust the DAC PW to include the approved costs in the calculation. FEMA will not include appealed costs approved after the two-year deadline. However, if previously approved costs are determined ineligible at any point, including after the two-year deadline, FEMA will deobligate the related DAC amount.
 - b. If the DAC PW is obligated and projects or portions of projects are later found to be ineligible (including projects that are ineligible due to insurance or other reductions decreasing the project below the minimum PW threshold), FEMA will deobligate the related DAC amount.
4. FEMA will process a Version 0 Category Z DAC PW upon the Subrecipient's request. This version will include 5 percent of the combined cost of each eligible project that the Subrecipient has signed and submitted to FEMA at that time, with exception of Permanent Work Pilot projects that do not yet have agreed-upon estimates and PWs that lacked sufficient information or documentation to support the costs, such as Expedited PWs.
5. To balance the Subrecipient's need to receive DAC PW funds with the administrative time and costs of processing multiple versions, Subrecipients may request DAC PW obligations at various milestones of the recovery process, but not more than quarterly.
6. The Subrecipient should request the final version of the DAC PW once all of its Emergency and Permanent Work PWs have been signed and submitted to FEMA.
 - a. This must occur no later than two years from the declaration date.



- b. If the Subrecipient has not signed and submitted to FEMA all of its PWs or costs by the two-year deadline, any PWs or costs submitted past the two-year deadline will not be eligible for inclusion in the fixed estimate DAC amount (unless it is a Permanent Work Pilot project pending an agreed-upon estimate).
 - c. This final version sets the lock-in amount for the DAC PW.
 - d. Once the DAC PW is locked-in, it cannot be changed unless the scope of work or costs are later determined unreasonable or ineligible.
7. FEMA will obligate the DAC PW at the prevailing cost share for the declared event. If there are different cost shares for different categories of work or time periods, FEMA will apply the prevailing cost share for Permanent Work to the DAC PW.
 8. The Recipient may disburse DAC funds to the Subrecipient upon their request for reimbursement (subject to the Recipient's payment procedures and the Federal cost share). The total amount of funding disbursed for DAC may not exceed the total actual costs that the Subrecipient incurred for DAC. The Recipient shall withhold the 1 percent portion of the DAC allowance, which is subject to the criteria in Section VIII.E.
 9. A spreadsheet is available at <http://www.fema.gov/media-library/assets/documents/153582> to effectively calculate the appropriate value for the fixed estimate DAC PW.

D. Use of DAC PW Funds

1. Subrecipients may use funding from the DAC PW toward DAC on any of its eligible PA projects, including eligible PWs submitted after the two-year deadline or not otherwise included in the fixed estimate calculation.
2. Subrecipients may not use the DAC PW funds to cover administrative costs on ineligible projects.
3. Subrecipients may not use funds obligated under the DAC PW to cover indirect costs. If a Recipient passes through State Management Cost funds to Subrecipients, it must ensure that costs are not duplicated. For information on DAC versus indirect costs and eligible DAC activities versus indirect activities, see Chapter 2:V.N.2. Direct Administrative Costs of the *Public Assistance Program and Policy Guide*.¹
4. Subrecipients may not use DAC PW funds to cover the non-Federal cost share of the DAC PW.

¹ www.fema.gov/media-library/assets/documents/111781



5. The end of the DAC PW POP is equal to the Subrecipient's latest Category A-G PW POP.
6. Section VIII.G applies to any funds remaining on the DAC PW after the Subrecipient has accounted for all actual DAC.

E. Closeout Deadlines for One-Percent Incentive

1. For large projects, the Subrecipient must submit the closeout package within 90 days of the respective project's POP deadline to retain the 1 percent closeout incentive for each of the respective projects. Each project's scope of work must be completed within the project's POP.
2. For small projects, the Subrecipient must submit the closeout package within 90 days of the last small project's POP deadline to retain the 1 percent closeout incentive for any of its small projects. Each project's scope of work must be completed within the project's POP.
3. If a project's POP expires prior to obligation, the 90-day closeout timeframe begins on the date FEMA obligates the PW.
4. If the Subrecipient submits the PW to the Recipient for closeout within the 90-day deadline as required by 2 CFR §200.343(a), the Recipient may disburse the additional 1 percent DAC allowance for that project to the Subrecipient (the amount disbursed must not exceed the actual DAC incurred).
5. FEMA will deobligate the 1 percent related to each project where the Subrecipient does not submit closeout documentation within the 90-day deadline as a remedy for non-compliance with the closeout requirement at 2 CFR §200.343(a), pursuant to 2 CFR §200.338(b).

F. Documentation Requirements

1. The Subrecipient is not required to track to which specific PW the DAC claim is related, it only needs to substantiate that it is related to eligible projects.
2. To support the DAC claim, the Subrecipient will provide documentation to support that the costs incurred were for eligible direct administrative activities, to include payroll data, contracts, invoices, and an explanation of the activities performed. The document retention requirements of 2 CFR Part 200 must be followed.
3. All DAC PWs are closed using the large project closeout process regardless of whether the PW itself is small or large. The DAC PW will be the Subrecipient's last project to



reconcile. Upon the Recipient's request, FEMA will complete a review of the underlying projects to ensure the DAC PW does not include any ineligible projects or costs. FEMA will review the actual costs of the DAC PW to determine if the claimed costs are adequately documented and eligible. FEMA will review procurement documentation to ensure compliance with procurement regulations. FEMA will create a version to adjust for any unreasonable or ineligible costs.

G. Use of Excess Funds

1. The Subrecipient may use DAC excess funds for any costs otherwise eligible pursuant to Section 428(e)(1)(D) of the Stafford Act (42 U.S.C. §5189f). The Subrecipient will need to identify any excess funds realized on the final DAC PW and submit a request to use the funds through the Recipient to FEMA within 180 days of the latest project POP.
2. DAC excess funds may be used for cost-effective hazard mitigation activities that will reduce the risk of damage in future disasters. The Subrecipient may use the funds for hazard mitigation on facilities not damaged in the declared disaster. However, the mitigation must be applied to facilities that would otherwise be eligible for PA Program funding in future disasters. Obtain and maintain insurance requirements apply if funds are used toward an insurable facility.² Excess funds may not be used on facilities that are ineligible due to a failure to meet previous obtain and maintain requirements.
3. Use of excess funds may also include activities that improve future PA Program operations, such as training and exercises; or planning for future disaster response and recovery operations, such as developing debris management plans, and participating in State/Tribal and local training for response and recovery; or participating in federal grants management and procurement courses.
4. FEMA will evaluate the proposed use for reasonableness to ensure excess funds are used in a prudent manner.
5. Within 180 days from the Subrecipient's last project POP, the Subrecipient must submit a request through the Recipient to FEMA identifying the amount of excess funds and how it proposes to use the funds, along with a project timeline. The Recipient and FEMA will review the request and process a new PW to document approval of the proposed use of excess funds and an appropriate timeline for completion. FEMA will de-obligate any excess funds that are not associated with an agreed-upon proposal by the 180-day deadline.

² Section 311 of the Stafford Act



IX. RESPONSIBLE OFFICE:

Recovery Directorate (Public Assistance Division)

Keith Turi *6/12/18*

Keith Turi Date
Acting Assistant Administrator
Recovery Directorate

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APPENDIX A: Agreement for Participation

This Agreement (“Agreement”) is made by and between the Federal Emergency Management Agency (“FEMA”), the _____ (“Recipient”), and participating Subrecipients, collectively “the Parties,” as of the date of the executed Agreement. This Agreement is hereby incorporated into and made part of the disaster assistance processing for the Public Assistance Alternative Procedures for Direct Administrative Cost for Subrecipient Administrative Costs for both non-fixed estimate grants provided under sections 403, 406, and 407 of the Stafford Act, as well as fixed estimate, capped grants under section 428 of the Stafford Act. Once a Subrecipient agrees to participate in the pilot, all direct administrative costs for their obligated PWs must be included.

Agreement Stipulations

- A. Each Party acknowledges and agrees that the grant conditions of this Agreement constitute an agreement of FEMA, the Recipient, and the Subrecipient (by signature of the Recipient and Subrecipient) related to FEMA’s discretionary eligibility determinations reflected herein and in the administrative cost PW.
- B. The Parties agree that no additional documentation outside of that described in Section VIII.F of the Recovery Policy for Public Assistance Alternative Procedures for Direct Administrative Costs will be required by FEMA to substantiate the fixed estimate DAC award, pursuant to the terms of this Agreement.
- C. The Parties agree that these conditions comport with the statutes, rules, and regulations that relate to and govern awards under FEMA’s Public Assistance program and Section 428 of the Stafford Act. The parties agree that these conditions do not create any liability on the part of FEMA that would be contrary to 42 U.S.C. § 5148.
- D. FEMA will deobligate funding awarded in compliance with this Agreement and memorialized in the respective PW only (1) as a remedy for non-compliance with the closeout requirement at 2 CFR § 200.343(a) pursuant to Section VIII.E of this policy; or (2) upon a determination of fraud, waste, or abuse. FEMA recognizes that any subsequent determination that deobligates funding associated with the determinations made herein and memorialized in the respective PW could constitute a new dispute subject to appeal under 44 C.F.R. § 206.206.



FEMA

RECOVERY POLICY

In consideration of the foregoing covenants, the Parties do hereby set forth their signatures:

Recipient Signature

Date

Recipient Representative Name:
Recipient Representative Title:
Name of Recipient (State, Tribe, or Territory):

Subrecipient Signature

Date

Subrecipient Representative Name:
Subrecipient Representative Title:
Name of Subrecipient (County, City, etc.):

FEMA Signature

Date

FEMA Representative Name:
FEMA Representative Title: